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OFFICIAL REPORT
(HANSARD)

Thursday, March 9, 2017

The Honourable GEORGE J. FUREY
Speaker

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THE SENATE

Thursday, March 9, 2017

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

Prayers.

SENATORS' STATEMENTS

THE LATE ANGUS A. BRUNEAU, O.C., O.N.L.

Hon. Elizabeth (Beth) Marshall: Honourable senators, I rise today to pay tribute to Dr. Angus Bruneau, who passed away on February 19 in St. John's, Newfoundland.

A native of Toronto, Dr. Bruneau, along with his wife, Dr. Jean Bruneau, moved from Waterloo, Ontario in 1968 to Newfoundland and Labrador to become the founding dean of Memorial University's Faculty of Engineering and Applied Science, where he introduced one of the first cooperative education programs in the country. He also served as the university's vice-president.

Dr. Bruneau's achievements during his lifetime were many. He was the founding President and Chief Executive Officer of Fortis Inc., a position he held from 1987 until 1996. He was chairman of its board of directors from 1998 to 2006. He also served on the board of directors of several Canadian corporations.

Dr. Bruneau was named an Officer of the Order of Canada in 1983 and a member of the Order of Newfoundland and Labrador in 2011. He earned his PhD in physical metallurgy at the University of London in 1962. He received honorary doctorates from Memorial University, Dalhousie University and the University of Waterloo.

Dr. Bruneau was the driving force behind the creation of C-CORE, which today is a world-renowned research organization in remote sensing, ice engineering and geotechnical engineering in St. John's.

He was a long-time and active member of St. David's Church in St. John's, where he was a faithful member of the choir. His woodworking skills are featured prominently throughout the church.

I first met Dr. Bruneau in 1987. I will remember him as a true gentleman, loyal, kind and friendly, with a wonderful sense of humour. He was a mentor to many of my generation, giving generously of his time and taking interest in each of us. He inspired all of us.

We have lost a proud Newfoundlander and a great Canadian. He will be missed by his family, his community and by all who knew him.

Honourable senators, please join me in extending condolences to Dr. Bruneau's wife, Jean, his sons and grandchildren, as well as his large circle of family and friends.

[*Translation*]

ALEX HARVEY

CONGRATULATIONS ON NORDIC WORLD CHAMPIONSHIP

Hon. Chantal Petitclerc: Honourable senators, on Sunday, Alex Harvey made history by winning the 50-kilometre freestyle race at the cross-country skiing world championships in Finland. Today, I want to congratulate him.

Alex is the first North American to win this event. You probably didn't know that, and it is not surprising, because very little has been said about it outside Quebec. This impressive win was not broadcast live on any Canadian television channel.

In order to see his son in action, Pierre Harvey had to go to the website of a European channel. According to *Le Devoir*, he said he was lucky this time that the event was broadcast in English, because most of the time he has to make do with the Russian commentary.

Is it not surprising, to say the least, honourable colleagues, that in a country as diverse as Canada these major events are not carried live by Canadian channels? Is that not the responsibility of our public broadcaster? Many athletes have complained about this.

In a well-received heartfelt appeal, former Olympic champion Jean-Luc Brassard said that since his retirement in 2002, televised weekend sports programming has not only failed to develop, but actually taken a step backwards. He is absolutely right.

Athletes do not come out of hibernation once every four years to take part in the Olympic Games. They compete all year round. We all understand that the market is driven by cost and profitability. However, I wish to add my voice to that of many amateur athletes who are calling on the CBC to share our athletes' achievements with the general public.

My friend, Jean-Luc Brassard, compared it to movies. He said:

> People want to see Xavier Dolan's movies, not just hear about them.

He's right, and I think the same applies to sport. It's important, and not just for high-performance athletics. If we want Canadians to be healthy and more physically active, watching our athletes can inspire young and old alike.

In sport, we talk about promoting physical activity from the playground to the podium, and that is something I truly believe in.

Some Hon. Senators: Hear, hear!

[*English*]

INTERNATIONAL WOMEN'S DAY

Hon. Salma Ataullahjan: Honourable senators, I rise today to speak on the occasion of International Women's Day, which was yesterday. Unfortunately, I could not be here for statements, as I was speaking at a women's day event. I will recite my daughter's poem, which is dedicated to millions of women around the world who suffer in silence, and forgive me if I get emotional.

The title is *The Opposite of Silence*.

I speak for my grandmother,
and her mother,
and her mother's mother,
who swallowed their tongue,
gestating this anger
knowing that defiance flowed through their veins
and they would birth a daughter who would spit revolution.

For the black eyes and the broken bones
For the dissolution of self
For all you had to endure
I speak

And if to speak is to be seen
then I will speak in my mother tongue
che zama khabara wazen laree
these words a vessel
because I carry in my skin the history of my people
my blood bursts with centuries of rage
and my tongue will go dry before I share all the stories that yearn to be heard.

for the women whose silence meant survival
for the young girls given in *swara*
for the sister beaten to death by her brothers for wanting a divorce
for the daughter fed formula so her twin brother could have breast milk,
for the mother who buried this child.
I speak.
We have been silent too long.

NATIONAL PORTRAIT GALLERY

Hon. Douglas Black: Honourable senators, I rise today to urge all senators to support the creation of a national portrait gallery of Canada at 100 Wellington, across the street from where we're now sitting — a location of great prominence.

This chamber has heard eloquent and powerful speeches from both Senator Joyal and Senator Bovey, outlining strongly the case for a national portrait gallery.

Portraits tell the Canadian story. The national portrait gallery that we all envision is not just musty old pictures hanging on the wall; it will be a vibrant, interactive and exciting way to present in person or online our history, while providing a panoramic view of our future. It must appeal to our generation, but more importantly to younger Canadians, just like the national galleries of all other major countries.

• (1340)

There are great Canadian stories that have been told or are being told through portraits that need to be shared with Canadians. But in my view, the creation of a National Portrait Gallery is unlikely to happen unless strong support from senators is forthcoming.

The government is currently concluding a process to determine what use 100 Wellington will be put to. The National Portrait Gallery is a contender but may well lose to our proposals which we believe are not as innovative or as nation building as a National Portrait Gallery.

Senator Joyal, Senator Bovey and I are asking senators to support a National Portrait Gallery by indicating your support in a letter, which we have drafted, which will be delivered to the Prime Minister and other relevant ministers. My office will be in touch with each senator's office to provide a copy of the letter, and we would ask if you would be prepared to indicate your support for a National Portrait Gallery.

A gallery in the former U.S. embassy as a Canada 150 legacy will support Canadian artists and celebrate our history. These works must not be lost to Canadians in vaults in Gatineau or closets in artists' studios. They must be accessible to Canadians to generate pride, knowledge and debate. Canada 150 marks the perfect opportunity to create a National Portrait Gallery as a lasting legacy to Canadians. We ask that all senators consider supporting this initiative.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Ian Hamilton and Mr. Paul Cameron, representatives of the Caledonian Society of Restigouche, accompanied by their wives, Ms. Wong-Hamilton and Ms. Margaret Cameron. They are the guests of the Honourable Senator McIntyre.

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

Hon. Senators: Hear, hear!

[*Translation*]

WORLD POETRY DAY

Hon. Paul E. McIntyre: Honourable senators, in one week's time, poets around the world will celebrate the 16th anniversary of World Poetry Day.

For centuries, poetry has contributed to the intellectual growth of humanity. Poetry influences how countries react in difficult times, it reflects our values, and it makes people aware of the most sensitive and often forgotten issues. It has pride of place in our cultural heritage and the history of our country.

The official day devoted to the art of poetry, commonly known as the World Poetry Day, is March 21. Let us take a moment to pay tribute to the Canadian poets who have made major contributions to the development of our cultural heritage.

I would like to take this opportunity to say a few words about the poetry initiatives of the Parliament of Canada.

In order to promote the importance of poetry in Canadian society, the Speakers of the Senate and the House of Commons appoint a Parliamentary Poet Laureate for a two-year term. Seven Parliamentary Poet Laureates have been appointed to date. The current incumbent, poet George Elliott Clarke, is from Nova Scotia, and was appointed on January 1, 2016. It is an honour to have him among us.

George Elliott Clarke is a seventh-generation Canadian of Afro-American and Mi'kmaq descent. Much of his poetry is dedicated to the Black communities of Nova Scotia and New Brunswick, the regions he calls "Africadia."

His poems shed light on barriers that they face daily, such as discrimination and racism, and on their struggle to address them, including resistance against social rejection and a sustained effort to maintain their own identity despite the many challenges they face.

The poet's efforts to enhance society's openness to diversity are praiseworthy. There is no better way to express Canadian values than through rhyme and verse.

[*English*]

Honourable senators, allow me to read a few verses from his poem, *The Senate of Canada: An Update-In-Progress*, dedicated to the late Honourable Senator Pierre Claude Nolin, Senate reform partisan:

> Here is The Senate's purpose!
> *Invention* is craft; *Improvement* is art:
> Honourable senators, act this part.
> "Sober second thought" isn't partisan,
> But, constitutionally, what is *Canadian*.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Jim and Robert Coyne. They are senior managers from Kluane Drilling, Yukon. They are the guests of the Honourable Senator Lang.

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

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

TREASURY BOARD

2017-18 DEPARTMENTAL PLANS TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Departmental Plans for 2017-18. They are in front of me, and I invite you to spend the next two weeks reading them.

CANADA EVIDENCE ACT
CRIMINAL CODE

BILL TO AMEND—THIRTEENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. George Baker, Deputy Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, March 9, 2017

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

THIRTEENTH REPORT

Your committee, to which was referred Bill S-231, An Act to amend the Canada Evidence Act and the Criminal Code (protection of journalistic sources), has, in obedience to the order of reference of December 14, 2016, examined the said bill and now reports the same with the following amendments:

1. *Clause 2, pages 1 and 2*:

(*a*) On page 1, replace lines 12 and 13 with the following:

"***journalist*** means a person whose main occupation is to contribute directly, either regularly or occasionally, for consideration, to the collection, writing or"; and

(*b*) on page 2,

(i) add after line 8 the following:

"**(3.1)** For the purposes of subsections (3) and (7), ***journalist*** includes an individual who was a journalist when information that identifies or is likely to identify the journalistic source was transmitted to that individual.",

(ii) replace lines 19 and 20 with the following:

"sure of information or a document only if they consider that",

(iii) replace line 22 with the following:

"in evidence by any other reasonable means;",

(iv) replace line 30 with the following:

"source and the journalist; and", and

(v) add after line 30 the following:

"**(c)** due consideration was given to all means of disclosure that would preserve the identity of the journalistic source.".

2. *Clause 3, page 4*:

(*a*) replace lines 9 and 10 with the following:

"Act of Parliament, a warrant under section 487.01, 487.1, 492.1 or 492.2, a search warrant under this Act, notably under section 487, or any other"; and

(*b*) add after line 27 the following:

"**(3.1)** The judge to whom the application for the warrant, authorization or order is made may, in his or her discretion, request that a special advocate present observations in the interests of freedom of the press concerning the conditions set out in subsection (3).".

Respectfully submitted,

GEORGE BAKER

Deputy Chair

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

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

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Pierrette Ringuette introduced Bill S-237, An Act to amend the Criminal Code (criminal interest rate).

(Bill read first time.)

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

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

• (1350)

[*English*]

CANADA-CHINA LEGISLATIVE ASSOCIATION CANADA-JAPAN INTER-PARLIAMENTARY GROUP

ANNUAL MEETING OF THE ASIA PACIFIC PARLIAMENTARY FORUM, JANUARY 17-21, 2016—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-China Legislative Association and the Canada-Japan Inter-Parliamentary Group respecting its participation at the Twenty-fourth Annual Meeting of the Asia Pacific Parliamentary Forum (APPF), held in Vancouver, British Columbia, Canada, from January 17 to 21, 2016.

TRANSFER OF HOSTING AUTHORITY FROM CANADA TO FIJI FOR THE TWENTY-FIFTH ANNUAL MEETING OF THE ASIA PACIFIC PARLIAMENTARY FORUM, APRIL 3-5, 2016—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-China Legislative Association and the Canada-Japan Inter-Parliamentary Group respecting its participation at the Transfer of Hosting Authority from Canada to Fiji for the Twenty-fifth Annual Meeting of the Asia Pacific Parliamentary Forum (APPF), held in Suva, Fiji, from April 3 to 5, 2016.

[*Translation*]

CANADA-CHINA LEGISLATIVE ASSOCIATION

BILATERAL MEETING, MARCH 28-APRIL 1, 2016—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-China Legislative Association respecting its participation at the 19th Bilateral Meeting, held in Beijing and Chongqing, People's Republic of China, from March 28 to April 1, 2016.

CANADA-JAPAN INTER-PARLIAMENTARY GROUP

CO-CHAIRS' ANNUAL VISIT TO JAPAN, SEPTEMBER 12-18, 2016— REPORT TABLED

Hon. Paul J. Massicotte: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian parliamentary delegation of the Canada-Japan Inter-Parliamentary Group respecting its participation at the Co-Chairs' Annual Visit to Japan, held in Tokyo and Nagoya, Japan, from September 12 to 18, 2016.

[*English*]

THE SENATE

NOTICE OF MOTION TO AMEND RULE 12-7 OF THE RULES OF THE SENATE

Hon. Pierrette Ringuette: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the *Rules of the Senate* be amended by:

1. replacing the period at the end of rule 12-7(16) by the following:

"; and

Human Resources

12-7. (17) the Standing Senate Committee on Human Resources, to which may be referred matters relating to human resources generally."; and

2. updating all cross references in the Rules accordingly.

[*Translation*]

QUESTION PERIOD

INFRASTRUCTURE AND COMMUNITIES

PARLIAMENTARY BUDGET OFFICER— INFRASTRUCTURE SPENDING

Hon. Claude Carignan (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate and has to do with a report published this morning by the Parliamentary Budget Officer that once again raises concerns about the government's infrastructure spending. A passage on page 1 of the report reads, and I quote:

> While the Government earmarked $8.0 billion in new spending for infrastructure in 2017-18, the PBO is only able to identify approximately $5.5 billion of additional investment in the Main Estimates 2017-18.

The Budget Officer mentions a number of reasons to explain this problem, including the fact that the government decided to defer some infrastructure spending to a period after 2017-18, or the fact that the money is available, but impossible to identify.

Can the Leader of the Government in the Senate tell this chamber which of those explanations is the most accurate? Does the government plan to defer the spending or has it already deferred billions of dollars in spending to a later, unspecified date? Can he explain the spending review process, which appears to have become far too complex, given that the Parliamentary Budget Officer cannot even identify the spending? I find this very problematic.

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question, and I want to assure honourable senators that infrastructure spending remains a significant and top priority of the Government of Canada.

Like all honourable senators, I await the budget of Minister Morneau, which will be coming in the next couple of weeks. I would expect that there will be added clarity to the priority the government attaches to the infrastructure funding. In the meantime, I want to assure all senators that the infrastructure program has been launched; it is under way. The minister has welcomed the report of the Senate committee with respect to infrastructure. There is, of course, a complete desire to learn, as we're engaged in this important initiative, and ensure that the best result for Canadians takes place as quickly as possible.

[*Translation*]

Senator Carignan: Thank you, Leader. The Parliamentary Budget Officer outlined the concerns that the Standing Senate Committee on National Finance raised in the report it released last week.

Could the Leader of the Government in the Senate explain to us why there is no one-stop shop or single-window access for the municipalities to access funding, given the complexity of the various federal infrastructure programs?

[*English*]

Senator Harder: The honourable senator points to an important area of complexity, and that is ensuring that there is appropriate consultation with the different orders of government and that that consultation takes place in an efficient and effective way. The

minister responsible, working with his colleagues, is very much aware of the need to streamline, and decisions and announcements will be made in the near future.

CANADIAN HERITAGE

JOHN DIEFENBAKER DEFENDER OF HUMAN RIGHTS AND FREEDOM AWARD

Hon. David Tkachuk: Honourable senators, earlier this week, the CBC reported that the Trudeau government was planning to shelf the John Diefenbaker Defender of Human Rights and Freedom Award, which was established under the previous government. Can you assure me that the John Diefenbaker Defender of Human Rights and Freedom Award will, in fact, not be shelved and will continue to be awarded in its present form, bearing the name of Mr. Diefenbaker, as even a memo from the department to the minister recommends?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I'm unaware of the issue and would be happy to inquire and respond to the honourable senator and all senators. I note, as the senator has with his reference to Prime Minister Diefenbaker, the important contributions Prime Minister Diefenbaker made in the area of human rights, the Bill of Rights, recognition of China and a foreign policy that was courageous.

AGRICULTURE AND FORESTRY

INTERNATIONAL MARKET ACCESS

Hon. George Baker: Honourable senators, I rise to ask a question concerning agricultural land in Canada. My question is directed to the Chair of the Standing Senate Committee on Agriculture and Forestry. He is here with us today in the chamber. The news reports referenced the committee examining, among other things, foreign ownership of farmland in Canada, the future of farmland as it relates to young farmers and the future of our food supply. Could he inform the Senate on the activities of his committee relating to those subjects recently?

Hon. Ghislain Maltais: Thank you very much, Senator Baker.

[*Translation*]

Thank you for your interest in agriculture, which is a very important economic sector for our country. The Senate gave us the mandate to closely monitor the acquisition of farmland and the transfer of family farms from father to son or father to daughter, whatever the case may be.

Canada currently has two major problems. First, the value of farmland increased by 167 per cent between 2010 and 2015. It is therefore becoming increasingly difficult for young farmers to acquire new land or expand the farms they have taken over from their parents. That is a serious problem. How did that happen? During the financial crisis, banks, trusts and the Canada Pension Plan got together and bought the land because it was a safe investment, which has caused the cost of farmland to skyrocket.

Second, in some provinces, farmland is being rezoned for residential construction because of urban sprawl.

• (1400)

The federal government cannot really step in to protect the farmland because this is a provincial jurisdiction. British Columbia and Quebec have rather strict laws. Other provinces have their own ways of preserving their farmland. Certain other provinces are lagging behind, especially Saskatchewan, which is still a major producer of agricultural products.

We must come up with a plan for the future to stop foreign investors from acquiring land through trusts. Manitoba and Alberta currently have such a plan in place and it is not easy. Quebec is in the process of doing this as well, but not without difficulty because the added layers of trusts are multiplying very quickly. It is not easy to find the true owners. The agriculture ministers from eight out of the ten provinces, as well as the two premiers we interviewed, told us about the difficulties they are having on this file.

However, these are provincial matters. I would say that this is not all doom and gloom because the return to the land will happen gradually. Farming is changing in Canada. Over the next 10, 15, 25, and 30 years, traditional farming will have to change to meet the demands of foreign and domestic markets. The Canada-Europe agreement is an example. We also have NAFTA with the United States. The trans-Pacific partnership is out of the picture, but some day, trade with China, Japan, and central Asia will represent a major and stable opportunity for Canadian farmers. Thank you, honourable senators.

[*English*]

Senator Baker: He was pretty thorough in his answers. There are just two parts to my supplementary question.

First, did the committee in its activities actually interview any Ministers of Agriculture? I do know that the news report referred to witnesses from every area of Canada. You spoke about foreign nations and their practices as they relate to Canada. Did you, in fact, travel?

And second, when are we to expect a report to the Senate and to Canada regarding these activities of your committee?

[*Translation*]

Senator Maltais: Before I answer your question, Senator Baker, I would like to take this opportunity to thank the members of the Agriculture Committee. There are 14 of us, and everyone did outstanding work. We did travel in Canada. We went to the Maritimes and central Canada. Videoconferencing makes things a lot easier and cheaper these days. We interviewed farmers, farmers' unions, producers and processors. We also went to China.

You may recall that I justified our request for a budget for that trip on the grounds that China is a very large market. Their population is now 1.4 billion. Ten or 15 years from now, they might be up to about 1.8 billion. China is a fantastic market for Canada.

With the help of Canada's embassy, we met with government officials. Your leader's son was with us, and I just want to say how nice he is. During those meetings, we also talked to groups of farmers and agriculture department officials, including the deputy minister and the assistant deputy minister. China has huge potential as a market, but we need to carve out a place for ourselves. We have competition. The Chinese want quality, traceability and excellent prices. This is not virgin territory to be tamed, and we are not missionaries.

In the future, Canada will have to supply the goods that China needs. Our deputy chair, Senator Mercer, was very proud to see that China is one of the biggest importers of live lobster. We actually saw them, but we can't afford them in China. We're better off eating them in Nova Scotia because they're too expensive in China.

It is a good market, a market of the future, but Canadian agriculture has to be ready to meet China's needs. There is already a fantastic opportunity for beef, because Canada was exporting beef to China that had already been processed here. However, people in China do not eat beef the same way we do. They do not like thick steaks. China approached us about this. Now, Canadian beef exporters can export whole carcasses, which are processed in China according to the way people want to eat beef. That is up to them. We are not going to change their tastes or their way of eating.

There are also many opportunities when it comes to pork and fish, and who would have ever thought that McCain would set up shop in China and grow potatoes there? McCain even has a training facility to teach farmers how to grow potatoes and process them the way people in China want to eat them. There is a wide range of opportunities available, but we need to do things properly. Thank you, honourable senators.

[*English*]

Senator Baker: The honourable senator didn't answer my question. I asked the chair when we can expect the final report, and my leader is not the Government Representative. His name is Joe. For the time being.

Some Hon. Senators: Oh, oh!

Senator Baker: His name is Joe, unless he changes his name.

I wonder if he could answer the question, and that is: When is his committee going to report the activities of the committee back to this chamber?

[*Translation*]

Senator Maltais: That is a very good question, Senator Baker. As you know, a 14-person committee with such a broad and important mandate must take the time to write its report carefully. The report is being prepared. We will be pleased to table it here in the coming weeks.

Since you gave me the opening, I would like to remind you that I requested $270,000 for the trip to China, and you approved it.

The trip cost exactly half of that amount because senators agreed to be frugal and spend less. We will be tabling the report in the coming weeks, once we have finished our work. Thank you.

[*English*]

PRIVY COUNCIL OFFICE

ANSWERS TO QUESTIONS

Hon. Donald Neil Plett: My question is for the Leader of the Government in the Senate, and I hope he will be as thorough with his answer as members on our side are with their answers.

Leader, on December 7 and then again on February 16 I asked questions specifically related to the rail transportation of grain. I asked very clearly and specifically whether the government would be extending, or would consider extending, the inter-switching requirements put in place by the Conservative government.

Both times, leader, you followed up with the government, and I appreciate that you have been supportive. The government has now provided delayed answers to both, which you have tabled. In neither of these delayed answers did I receive an answer. Instead, this is what I got, leader, on March 1, in answer to my question on December 7:

> It is the Government's intention to strike a proper balance in order to create a freight rail system that is more competitive and efficient in the long term.

• (1410)

In the second answer the government said:

> The Government of Canada recognizes the importance of a transparent and stable policy framework to ensure predictability for all supply chain participants.

Now, I'm not sure what that means.

Leader, I think you could have told us both of those answers. You didn't need to go anywhere to ask about that. You could have stood up and said that and you would not have been off message. The Government of Canada believes that they should be kind to everybody, and we appreciate that.

Now, leader, my first question — and this can be done fairly simply — is this: Do you believe that the government has an obligation to provide actual answers to the questions that are posed to them?

Hon. Peter Harder (Government Representative in the Senate): I would not want to be as brief as my predecessor in answering the question posed by Senator Baker, but let me say thank you, Honourable Senator Plett, for both the questions that you asked and the answers that were provided.

Of course the government is obliged to answer questions.

TRANSPORT

WESTERN CANADIAN GRAIN TRANSPORTATION

Hon. Donald Neil Plett: Leader, I'm hoping that the third time is a charm. Will the government extend the interswitching requirements put in place by our Conservative government, a program that is supported by Western Canadian grain producers and Western Canadian farmers? Could you get me an answer, yes or no? Will you be extending those requirements?

Hon. Peter Harder (Government Representative in the Senate): I think it's important for me to remind all honourable senators that there is an obligation to respond to questions, but that response isn't necessarily the response as framed or desired by the questioner.

With respect to this issue, the senator will know that the whole issue of transportation is under review as a result of David Emerson's report. The Minister of Transport has said outside of this place — and I can repeat it here — that the minister is examining that report with the view of coming forward with a comprehensive approach to the issues raised by Mr. Emerson in his report. The need for stakeholder consultations and for comprehensive approaches is one that I certainly endorse and I'm sure the honourable senator does as well. At the appropriate time — and the minister has indicated a time frame for his report — that will be forthcoming.

[*Translation*]

HEALTH

MEDICAL ASSISTANCE IN DYING

Hon. Jean-Guy Dagenais: Leader, in June 2016, the Senate passed Bill C-14 on medical assistance in dying. I was one of 12 senators who had the courage to vote against this bill. The majority passed it, believing that it was a good start and that the government would fix its mistakes later.

Two weeks ago in Montreal, a man killed his wife out of compassion because she was suffering from Alzheimer's and did not have access to medical assistance in dying as defined by the law. There was another mercy killing in the Pontiac, and last Sunday a man with Lou Gehrig's disease told a television reporter that he would have to go abroad for medical assistance in dying.

Can the Leader tell us what his government has done up to this point to address the problems with the law? If nothing has been done, can he tell us how many more mercy killings it will take for this to become a priority?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. Obviously, this is an issue that preoccupied the Senate for a good part of last May and June. The honourable senator refers to commitments made in the course of that legislative discussion by the government to launch and ensure a study takes place on the issues that were not addressed in the legislation.

As the honourable senator will know, when the minister responsible was here, a question similar to that was asked. She committed and referred to the announcement that has been made by the government with respect to those studies. The work is under way and government has committed to respect the time frames that were committed to at the time of Bill C-14 and bring forward, within that time frame, appropriate responses.

AGRICULTURE AND AGRI-FOOD

EXPORT OF PULSE CROPS TO INDIA

Hon. Tobias C. Enverga, Jr.: Honourable senators, my question is for the Leader of the Government in the Senate.

This is a follow-up to a question by my colleague Senator Oh. He asked last month about Canada's exports of peas and lentils to India. As feared, India has given notice that it will not extend a pest control exemption for Canadian pea and lentil imports past March 31. India accounted for one third of our pulse exports in 2015, worth about $1.5 billion.

The Minister of Agriculture has been in India for several days on a trade mission that ends tomorrow. Canada's pulse exports to India should be at the top of the minister's agenda during his visit. However, we have yet to hear anything from him on this issue and the March 31 deadline is fast approaching.

My question for the government leader is this: If the minister is unsuccessful in getting an exemption to continue Canadian pulse exports to India, will the Government of Canada try to secure a temporary agreement until a long-term solution so this dispute can be reached?

Hon. Peter Harder (Government Representative in the Senate): I wish to thank the honourable senator for his question. It is somewhat premature in that the government and the minister responsible are working vigorously and with full focus on reaching an agreement. The minister is currently focused on doing just that.

Security of export markets is a high priority for this government. You will know that in the context of canola and China, the government was successful in extending an agreement for those exports, which all honourable senators would welcome. The Minister of Agriculture is working tirelessly to assure access to the India market, as well as enhanced market access for Canadian agriculture and agri-food.

[*Translation*]

JUSTICE

LEGALIZATION OF MARIJUANA— SURVEYS AND STUDIES

Hon. Claude Carignan (Leader of the Opposition): My question is for the Leader of the Government in the Senate and concerns a delayed answer tabled on March 2 to a question I asked one month before. I asked him whether the government had conducted any studies or polled target groups on the

decriminalization and legalization of drugs other than marijuana. The purpose of the question was to delve deeper into comments made in the other place by the Prime Minister, who said that the government intended to legalize marijuana, but was not planning on, and I quote, "legalizing anything else at this time."

The delayed answer reads as follows:

> The Department of Justice has not conducted any studies or polled target groups on the decriminalization and legalization of any drugs.

Can the leader also tell us whether Health Canada, Public Safety Canada and the Privy Council Office have looked into whether those departments have conducted any studies or surveys of target groups?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and would be happy to inquire of the other agencies and departments that he's asking this response from.

I would note that the question was answered reasonably quickly, and I would seek to have an answer equally quickly to satisfy the question that the honourable senator has asked.

ORDERS OF THE DAY

CITIZENSHIP ACT

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Gagné, for the third reading of Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act.

Hon. Elaine McCoy: On debate, Your Honour, where I left off yesterday.

Honourable senators will remember I was talking about the minister having this singular ability to make a decision and how I think that is a trend in legislation, which I don't favour, because leaving any immense decision like citizenship to one person gives rise to the possibility of abuse.

• (1420)

But worse than that, he actually delegates this authority, and he delegates it not down one level to the deputy minister, not two levels to the ADM, not three to the associate deputy, not four to the senior analyst; he takes it all the way down to about six levels in the department. I'm talking way buried in the bowels of the department. Some civil servant is sitting there anonymously making a decision about somebody's life.

I will propose an amendment when I finish speaking, but I want to take one moment before I proceed to explain why I'm making the amendment, because not all of us are as familiar with the Rules, and I just learned this myself.

When you move third reading of a bill, you are not allowed to immediately move an amendment on your own motion, but you are allowed to ask a colleague to move one that you support. Senator Omidvar did me the honour of asking me to move an amendment on this bill that she supports. I am flattered that she did that because I very much support not only the bill but this amendment, because I do not think there's due process. I don't think there's a fair process in our legislation for revoking passports, citizenship.

Think of this live example of a woman who has lived here for 30 years. She emigrated here 30 years ago, ran away from an abusive husband. She had a couple of small kids. She came through the border. She hoped never to be found again. She didn't want anybody to trace her, so she did not mention that man was still her husband or had been her husband.

Now this anonymous civil servant, sitting in some cubicle six blocks from us, just down the street on Slater, found her file, found that she used to be married, says that she made a misapplication on her application for citizenship, and therefore is about to revoke her citizenship. That's what's been happening.

Now that this facility, this decision making, has been pushed down six levels below the minister, there have been 235 notices of revocation sent out. That's in the period from May 28, 2015 to December 31 of last year, 19 months. In the 28 years before that, there was a grand total of 167 notices of revocation.

I prefer to have an elected official make these decisions, and I would even prefer that elected official to be making them at the cabinet level so there's a hearing. You have to make the case somewhere in public, and you have to do it through somebody who's accountable.

I started getting very interested in this whole case and asked to see a copy of a revocation letter. Well, the story gets worse. The revocation letter is signed, "Yours sincerely, D1816."

Senator Campbell: I'd change my name.

Senator McCoy: "Senior Analyst, Case Management Branch for Citizenship and Immigration Canada." Can you believe it? This is how anonymous the system has become.

They don't give any hearing. The only way they'll give you a hearing, they tell you, is if they do not believe you, if there's a question about your credibility, number one. The second criterion they tell you is if you can't write in a submission.

I'm saying this is ludicrous; it's bad and it's wrong. That's what the amendment is designed to address. It will give us a due process, give people a due process.

Most of our immigrant Canadians don't live anywhere close to Ottawa, yet this anonymous D1816, sitting in a cubicle six blocks south of here, is sending them back to a country they haven't seen for up their 30 years, and their grown children, and their grandchildren who were born here. That's what's wrong with this bill.

Well, there's more things wrong with it. This amendment will not fix everything, but it goes a long way.

MOTION IN AMENDMENT

Hon. Elaine McCoy: Honourable senators, I, standing here and proud to do it, move:

> That Bill C-6 be not now read a third time, but that it be amended —

This is a long amendment, so bear with me. Can I do an interjection in the middle of reading this, Your Honour?

The Hon. the Speaker: No, I think you should just carry on reading the full amendment, please.

Senator McCoy: Thank you.

> That Bill C-6 be not now read a third time, but that it be amended,
>
> (*a*) in clause 3, on page 4, by replacing line 1 with the following:
>
> "**3 (1) Subsection 10(2) of the Act is repealed.**
>
> **(2) Subsection 10(3) of the Act is replaced by the following:**
>
> **(3)** Before revoking a person's citizenship or renunciation of citizenship, the Minister shall provide the person with a written notice that
>
> **(a)** advises the person of his or her right to make written representations;
>
> **(b)** specifies the form and manner in which the representations must be made;
>
> **(c)** sets out the specific grounds and reasons, including reference to materials, on which the Minister is relying to make his or her decision; and
>
> **(d)** advises the person of his or her right to request that the case be referred to the Court.
>
> **(3.1)** The person may, within 60 days after the day on which the notice is received,
>
> **(a)** make written representations with respect to the matters set out in the notice, including any humanitarian and compassionate considerations — such as the best interests of a child directly affected — that warrant special relief in light of all the circumstances and whether the Minister's decision will render the person stateless; and
>
> **(b)** request that the case be referred to the Court.
>
> **(3.2)** The Minister shall consider any representations received from the person pursuant to paragraph (3.1)(a) before making a decision.
>
> **(3) The Act is amended by adding the following after subsection 10(4):**
>
> **(4.1)** The Minister shall refer the case to the Court under subsection 10.1(1) if the person has made a request pursuant to paragraph (3.1)(b) unless the person has made written representations pursuant to paragraph (3.1)(a) and the Minister is satisfied
>
> **(a)** on a balance of probabilities that the person has not obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances; or
>
> **(b)** that sufficient humanitarian and compassionate grounds warrant special relief in light of all the circumstances of the case.
>
> **(4) The Act is amended by adding the following after subsection 10(5):**
>
> **(5.1)** The Minister shall provide a notice under subsection (3) or a written decision under subsection (5) by personally serving the person. If personal service is not practicable, the Minister may apply to the Court for an order for substituted service or for dispensing with service.
>
> **(5.2)** The Minister's decision to revoke citizenship or renunciation of citizenship is final and is not subject to judicial review under this Act or the *Federal Courts Act*.";
>
> (*b*) in clause 4, on page 4,
>
> (i) by replacing line 2 with the following:
>
> "**4 (1) Subsection 10.1(1) of the Act is replaced by the following:**
>
> **10.1 (1)** If a person makes a request under paragraph 10(3.1)(b), the person's citizenship or renunciation of citizenship may be revoked only if the Minister seeks a declaration, in an action that the Minister commences, that the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances and the Court makes such a declaration.
>
> **(2) Subsections 10.1(2) and (3) of the Act are re-"**, and

(ii) by adding after line 6 the following:

"**(3) Subsection 10.1(4) of the Act is replaced by the following:**

(4) If the Minister seeks a declaration, he or she must prove on a balance of probabilities that the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances.

(5) In an action for a declaration, the Court

(a) shall assess, on a balance of probabilities, whether the facts — acts or omissions — alleged in support of the declaration have occurred, are occurring or may occur; and

(b) with respect to any evidence, is not bound by any legal or technical rules of evidence and may receive and base its decision on any evidence adduced in the proceedings that it considers credible or trustworthy in the circumstances.";

(*c*) on page 4, by adding after line 7 the following:

"**5.1 Subsection 10.5(1) of the Act is replaced by the following:**

10.5 (1) On the request of the Minister of Public Safety and Emergency Preparedness, the Minister shall — in the originating document that commences an action under subsection 10.1(1) on the basis that the person obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances, with respect to a fact described in section 34, 35 or 37 of the *Immigration and Refugee Protection Act* other than a fact that is also described in paragraph 36(1)(a) or (b) or (2)(a) or (b) of that Act — seek a declaration that the person who is the subject of the action is inadmissible on security grounds, on grounds of violating human or international rights or on grounds of organized criminality under, respectively, subsection 34(1), paragraph 35(1)(a) or (b) or subsection 37(1) of the *Immigration and Refugee Protection Act*.";

(*d*) on page 7,

(i) by adding after line 16 the following:

"**19.1 A person whose citizenship or renunciation of citizenship was revoked under subsection 10(1) of the *Citizenship Act* after the day on which this Act receives royal assent but before the day on which all of subsections 3(2) to (4) come into force, is deemed never to have had their citizenship revoked.**", and

(ii) by adding after line 21 the following:

"**20.1 If, immediately before the coming into force of section 4, a notice has been given to a person under subsection 10(3) of the *Citizenship Act* and the matter was not finally disposed of before the coming into force of that section, the person may, within 30 days after the day on which that section comes into force, elect to have the matter dealt with and disposed of as if the notice had been given under subsection 10(3) of the *Citizenship Act*, as enacted by subsection 3(2).**";

(*e*) on page 8, by replacing lines 16 to 25 with the following:

"**25 Subparagraphs 40(1)(d)(ii) and (iii) of the *Immigration and Refugee Protection Act* are replaced by the following:**

(ii) subsection 10(1) of the *Citizenship Act* in the circumstances set out in section 10.2 of that Act before the coming into force of paragraphs 46(2)(b) and (c), as enacted by *An Act to amend the Citizenship Act and to make consequential amendments to another Act*, or

(iii) subsection 10.1(3) of the *Citizenship Act* in the circumstances set out in section 10.2 of the *Citizenship* Act before the coming into force of paragraphs 46(2)(b) and (c), as enacted by *An Act to amend the Citizenship Act and to make consequential amendments to another Act*.

26 Paragraphs 46(2)(b) and (c) of the Act are replaced by the following:

(b) subsection 10(1) of the *Citizenship Act*; or

(c) subsection 10.1(3) of the *Citizenship Act*."; and

(*f*) in clause 27, on page 9, by adding after line 9 the following:

"(3.1) Subsections 3(2) to (4), subsections 4(1) and (3) and section 5.1 come into force one year after the day on which this Act receives royal assent or on any earlier day or days that may be fixed by order of the Governor in Council.".

• (1430)

Hon. Yonah Martin (Deputy Leader of the Opposition): Would Senator McCoy take a question?

The Hon. the Speaker: Senator McCoy's time has expired. She will have to ask for extra time.

Senator McCoy, are you asking for time to answer a question?

Senator McCoy: I would be delighted to take a question, if my colleagues would please extend the time.

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

Hon. Senators: Agreed.

Senator Martin: Senator, thank you for your whole new bill. It's quite a lot to digest. I will definitely have to read it carefully.

You may or may not be able to answer all the questions. You did indicate these are amendments that you support.

The first question, senator, is this: Do you know whether any of this was discussed at committee?

The minister appeared before the committee. I was trying to follow at what point you're inserting, if there's a repeal of a section, but this is a whole new provision or multiple provisions. I'm wondering about going outside of the scope of the bill.

How would you justify this at this stage, third reading, and whether this should have been fully discussed at committee?

It seems unfair to ask the chamber to look at these very complex amendments. I will ask you to explain further how this fits within the scope of the existing bill and what the minister may have said at committee regarding this.

The Hon. the Speaker: Senator McCoy, before responding, the amendment has to be formally put before the chamber.

> It was moved by the Honourable Senator McCoy, in amendment, seconded by the Honourable Senator Ringuette, that Bill C-6 be not now read the third time but that it be amended — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Senator McCoy.

Senator McCoy: You do know that's how the term "first reading, "second reading" — they used to read them all out. Aren't we glad that we don't do that anymore?

In answer to your question, this amendment has, in fact, been discussed for about a year now with various people in various forums, if I may put it that way. One thing we were very concerned with was that, it being somewhat fulsome, shall I say, we be transparent and collaborative.

I know Senator Omidvar has shared a copy of this with members of your caucus three days ago, particularly the critic, Senator Linda Frum. We've also shared it with members of the Liberal caucus as well. Of course, we've shared it with the minister's office all the way through.

Were these subjects discussed? Yes, they've been discussed and discussed.

The minister corroborated that he has nothing to do with these revocations. I asked him that question at committee. He said no, he never sees a revocation.

What the official said did not touch on the oral hearing, as I recall. They were very careful how they responded as to what process they use. They didn't tell us that it was D1816 that sends out the revocation letter, for example. They did say the decision maker, as they call this person — which turns out to be a title, by the way, on their organization chart. They have about five decision makers, also down at Slater Street, buried in another cubicle, I assume — actually discloses the evidence to the person to whom the notice of revocation is sent.

• (1440)

We discovered later that's merely the evidence on which the so-called decision maker is relying. It is not all of the evidence that person actually has in his or her possession. Even there, there was some obfuscation as to the process.

I was very pleased, though. This is why I would be more confident if the minister were actually making these decisions, because the minister himself is new in his position. But right away, he said "If any senator has any suggestions as to how we could improve our internal process, I would be very pleased to hear them." So we are hoping that some senators will indeed sit down and provide that minister with some suggestions as to how he could instruct his civil servants to improve the process to give these people some fair natural justice and fair proceedings in a matter that is so momentous, as it strips away your citizenship.

The Hon. the Speaker: Senator Martin, Senator McCoy's time has expired again. If you want to ask more questions, she will have to ask for more time.

Senator McCoy: Are there more questions?

The Hon. the Speaker: If not, on debate, Senator Pratte.

Hon. André Pratte: I rise to express my support to Senator McCoy's amendment to Bill C-6.

Before I proceed to discuss the amendment, I need just to say a few words about the bill itself to put this in context. As I indicated in my second reading speech, which no doubt is etched into your memories, I support Bill C-6 because it restores a number of measures that reflect Canada's tradition of welcoming immigrants, a tradition undermined by part of Bill C-24 passed under the previous government.

[*Translation*]

Under Bill C-24, Canadian citizens holding dual citizenship and convicted of terrorism, treason or espionage could have their Canadian citizenship revoked in order to be treated as foreigners. The government of the day considered that to be fair punishment befitting the severity of the crime. It also saw this as a way to keep Canadians safe. I completely disagreed with that argument at the time, and I still do. Canadians who have their citizenship revoked will be sent back to the other country of citizenship. If that is a failed state, we have no way of tracking them. They could join a terrorist cell or attack Canadian workers or tourists. One thing is certain: we will have far fewer ways than before to protect ourselves from them.

Bill C-24 added the requirement that prospective Canadian citizens declare their intent to continue living in Canada once granted citizenship. The practical effect of this requirement remains unclear. If a Canadian citizen is sent overseas by their employer, could they be stripped of their citizenship for having

made a fraudulent declaration? The previous government's responses on this subject were very confusing, to say the least. This new requirement also caused a great deal of confusion among prospective citizens, who felt that they were losing their right to free movement, which is a right guaranteed by the Canadian Charter of Rights and Freedoms.

We were told that this measure would deter citizenships of convenience. According to the government's most recent statistics, throughout 2016, only 87 people had their citizenship revoked for having falsified or faked their residency in Canada. In the same year, over 147,000 people obtained their Canadian citizenship. Clearly, then, the fraudsters made up a tiny minority.

Is it wise to deprive thousands of new Canadians of their freedom of movement, or at the very least cause them to worry, just because a few dozen people at most allegedly cheated the system?

There are many other ways to prevent fraud than depriving new citizens of their fundamental rights. The Canadian government has used those methods. The previous government gave us several measures in Bill C-24, and the current government decided to keep them. Take for example the citizenship consultant regulations, higher penalties for breaking the law, the redefined residency criteria and, of course, putting the power to revoke citizenship in the hands of the minister instead of the Governor in Council. These measures have already led to a significant rise in the number of revocations from 10 in 2014 to about a hundred cases last year.

[*English*]

The problem is that Bill C-24, while granting the new power to revoke citizenship to the minister, provided practically no recourse to citizens. Their only right is to make a representation in writing to the same official who made the initial decision. If the official upholds his own decision, it is game over. There is no appeal process. The only option the former citizen has is to apply for leave to the Federal Court for judicial review. Obtaining that leave is very uncertain, and even if the citizen obtains it, his or her lawyer must then demonstrate not that Immigration, Refugees and Citizenship Canada made a poor decision but that the decision in question was unreasonable. It is not an easy demonstration to make.

During the second reading debate, like a number of other senators, I deplored the fact that Bill C-6 does not correct this major shortcoming in the current legislation, meaning that it does not put in place a real appeal process for those whose citizenship is revoked. It is a shortcoming that the government itself tried to address in the other place, with no success.

At the Social Affairs Committee, many witnesses identified this as an issue. Ms. Barbara Caruso, Vice-Chair of the Immigration Law Section at the Canadian Bar Association, remarked:

> If you get a parking ticket, you have a right to a hearing, but if you are a citizen and you are going lose your citizenship, you have no right to a hearing. It doesn't make sense.

This process is not fair, especially for a decision whose consequences are as serious as the loss of citizenship. The individuals affected must have an opportunity to be heard. They must have access to all the information the government has about them. They must be able to count on a neutral and independent body. It is simply a matter of justice and due process.

It's instructive to compare the process in place for citizens to the one for permanent residents suspected by Immigration, Refugees and Citizenship Canada of lying or defrauding to obtain their status. They are first notified that they are under investigation. They can then try to convince the authorities that those suspicions are unfounded. If they are unable to do so, a hearing is held before the immigration division of the Immigration and Refugee Board of Canada. If they lose at that first step, those threatened with the loss of their status may appeal to the appeal division, where they obtain a second hearing.

Accordingly, permanent residents have three opportunities to make their case, two of which are at hearings before an independent administrative tribunal.

However, under the current Citizenship Act, Canadians threatened with losing their citizenship can only make written representations to the same official who made the initial decision. They do not even have the right to see the entire file that Immigration, Refugees and Citizenship Canada has on them.

The amendment introduced by Senator McCoy addresses this serious shortcoming of Bill C-6. With the amendment, the entire revocation process will be much fairer than the current one.

For instance, when the officials who are thinking of revoking the citizenship notify the individuals in writing, they will have a legal obligation to deliver the letter to them in person. They will not be able to just send the letter to the last known address, as is the case right now. This new requirement will ensure that Canadians will not lose their citizenship without even knowing about it because they were abroad, for instance, when the letter from Immigration, Refugees and Citizenship Canada was sent.

I'm not talking about hypothetical examples. This happened.

More important, under the amendment, the Citizenship Act will require the department to take into account humanitarian and compassionate grounds in assessing the citizen's file. Currently, nothing in the act, regulations or guidelines to officials indicates that such considerations must be taken into account. If the amendment is passed, humanitarian and compassionate considerations, such as the best interest of children affected by the situation, will be enshrined in the act.

• (1450)

Upon receipt of the letter from Immigration Canada, the citizen can decide to make representations to the department and can ask for the file to be referred to the Federal Court.

If the citizen has chosen that second course, no revocation can occur before the minister launches an action in front of the Federal Court to attempt to prove that there has been misrepresentation in that case. From then on, it's more than the right of appeal; it is a new trial, where new evidence may be submitted. It is certainly much better than what exists now, where the citizen's only recourse is to ask for leave for judicial review and where, as I just explained, chances of getting a hearing and then winning are not great.

With this new process, if they so choose, citizens are certain to be heard by a judge of the Federal Court. They will have access to

the entire file that Immigration Canada holds on them. As a result, citizens will know whether some factors that could have exonerated them have been excluded by the officials and they can use them in their defence. At trial, the onus is on the minister to prove that the person has obtained his or her citizenship by misrepresentation or fraud.

Honourable senators, in short, we see that the amendment introduced by Senator McCoy restores due process and fairness in the citizenship revocation process, which had completely disappeared when Bill C-24 was passed.

Some will wonder why we are doing favours for people who have cheated the system. My answer is that those are not favours but fundamental rights. I also reply that our system of law is based on the presumption of innocence. Since the revocation of citizenship is an extremely harsh penalty, the process leading up to it must be flawless from a legal and from a human point of view.

Some have justified the system put in place by Bill C-24 by asserting that Canadian citizenship is a privilege, not a right. In her testimony in front of the Social Affairs Committee, Ms. Audrey Macklin, professor of law at the University of Toronto, made the distinction between a privilege and a right in common parlance and in law. In my view, that distinction is crucial. Allow me to quote Professor Macklin:

> Lots of people say citizenship is a privilege, not a right. I think what people mean by that when they say it is they feel privileged to be a Canadian citizen. . . . but a privilege in law is something quite different.
>
> A privilege in law is the conferral of a discretionary benefit onto an individual. A privilege belongs not to the individual who holds it but to the authority that confers it, and it can be taken way. When we say citizenship is a privilege, not a right, what we are really saying is that it belongs to the government. It can give it and take it away as it wishes. I'm not sure that that is something that we would want to endorse at all.
>
> Citizenship, in law, is a right. Once you have it, you hold it as a right.

That is what is at stake here. In law, Canadian citizenship, whether obtained at birth or acquired later in life, is a right that belongs to the citizen, not to the state. If it were not the case, imagine a society where an anonymous official could revoke the citizenship of any citizen with the stroke of a pen, based on mere suspicion, without possibility of appeal.

That is why the state cannot be allowed to revoke citizenship without presuming that citizens have acted in good faith and that they have the right to be heard and the right to appeal the decision before a neutral and independent tribunal. It is simply the right, fair, just way of doing things. It is the Canadian way of doing things, is it not?

Honourable senators, the Canadian way of doing things is what Bill C-6 is all about. Some adjustments to the Citizenship Act were certainly needed, and let us give credit to the government of Prime Minister Stephen Harper for making those changes. However, overall, Canada's traditional policy in that matter has served us well, turning millions of newcomers into full-fledged citizens who have contributed immensely to building the country we know today.

Bill C-6, as amended by Senator McCoy, will make it possible to resume this generous and fair tradition — a tradition that has always been and will continue to be one of Canada's marks of distinction.

The Hon. the Speaker: Senator Pratte, would you take a question?

Senator Pratte: Yes.

Hon. Michael L. MacDonald: Senator Pratte, thank you for your remarks.

I am curious if you can share with the house under what circumstances you believe citizenship should be revoked, if any.

Senator Pratte: As the bill and the amendment provide, if the citizenship is obtained after fraud or lies, citizenship can be revoked, and the bill changes nothing about that. All the bill provides is that if someone is accused by the government, by an official, of having obtained his or her citizenship after fraud or simulation or lies, the citizen has a right of appeal, which does not exist for the moment. Having a right of appeal is simply a fundamental right in any kind of legal process.

The Hon. the Speaker: On debate, Senator Omidvar.

Hon. Ratna Omidvar: Honourable senators, before I speak on the amendment, I want to reflect a little bit on the debate yesterday. I want to thank everyone for engaging in what I thought was a vibrant, invigorating and always respectful debate. I'm sorry that my short jokes fell flat. I will revert to poetry next time. Hopefully that works better.

I also want to remark that we might disagree on many things, but I know that we agree on one very important fundamental emotion that joins us. We all love this country and we all want to work together to make it better. I really do understand.

Of course, I want to support wholeheartedly the amendment put forward by my colleague Senator McCoy because it closes a significant loophole in procedural fairness for citizens who have allegedly committed fraud or misrepresentation on their applications.

This amendment has been a labour of many months, and I would be remiss if I did not acknowledge the contributions of Lorne Waldman and Josh Patterson of the British Columbia Civil Liberties Association who have helped me every step of the way. I would also be remiss if I did not acknowledge the hard work and long hours of Suzy Seo of the law clerk's office. She worked over the last weekend in helping us get to where we are. Thank you to her as well.

As I said yesterday, Bill C-6 is a good bill, but it's not a perfect bill. The former Minister of Immigration, Mr. John McCallum, publicly stated he would welcome amendments to Bill C-6 to fix

this fairness and procedural loophole with regard to citizenship revocations. As things currently stand, honourable senators, I will submit to you that there is more due process for me if I get a parking ticket in Toronto as opposed to if I get my citizenship revoked in Ottawa.

Citizenship is, as I said yesterday, the foundation of all rights. But from the beginning, Bill C-6 had a ghost limb. I don't know why this was not in the bill, possibly because of the haste with which it was crafted as a signature government promise to repeal parts of Bill C-24. Nevertheless, I'm pleased to have played a role in crafting this amendment. I have shared it in advance with members and various senators from all caucuses and groups who have an interest in this matter, and now we all have it in front of us.

At issue, as Senator Pratte stated, is not the grounds for revocation, fraud and misrepresentation. These have rightly been in the Citizenship Act since 1947, Senator MacDonald. We are always able to revoke the citizenship of someone who misrepresented themselves in their citizenship application. At issue, though, is stripping citizenship without procedural fairness.

I think it is only right that naturalized Canadians can lose their citizenship on grounds of fraud or misrepresentation, but I think it is wrong that only they are subject to executive decisions of the kind that Senator McCoy outlined, without the guarantees of fundamental justice enshrined in the Charter.

• (1500)

There are three revocation models that I think I needed to understand in order to get where I am today. Think of these three models as swings of a pendulum, one too far off on one side, one too far off on the other. Then, what we are proposing is the one in the centre because it brings us back to a centre and provides a balance to both due process, on the one hand, and timeliness on the other, so both fast and fair.

So let's start with the first model, the pendulum at one end, which existed before 2015. The revocation process for fraud and false representation was long, but it was fair. It had three steps. It involved the minister. It went from the minister to the Federal Court, and then it went from the Federal Court to the Governor-in-Council.

The previous government rightfully decided, I think, to fix the process to address the long delays that were inherent in this three-step process, but, in doing so, it wrongfully gutted it of due process.

Now, we come to the current model, which is the pendulum swinging to the other end. It's a one-step process now. The minister and his delegate are the one institutional stakeholder that is involved. Canadian citizens can have their citizenship revoked by a delegate of the immigration minister. We heard from Senator McCoy how far down that delegation can go, without the right to a hearing and without the right to have full disclosure of the case against them.

This is serious. It's serious because revoking citizenship is serious, but it is even more serious because the government is revoking more citizenships than ever before. I'm not talking about the previous government only; I'm talking about this current government. You heard these numbers from Senator McCoy and Senator Pratte. Last year, I asked the then minister to halt revocations until Bill C-6 was approved, and my request was declined.

Let me provide you with some context to all of this. I'm going to give you an example of a young woman. She's an Egyptian national. She became a Canadian citizen when she was 8 years old. Because she was a minor, her citizenship was processed under her mother's name. In September 2015, when she was 18 years old and no longer a minor, immigration authorities served her parents with a notice of their intention to revoke her and her family's citizenship on the basis of misrepresentation. Ms. B was never served with these documents, and her parents never told her about this notice. Although she was an adult, her parents made representations on her behalf to CIC, without telling her, and her citizenship was revoked in December 2015. She did not find out until a year later, in 2016.

Ultimately, because they had failed to serve her in person, the minister withdrew his revocation and issued a new notice, a new intention to revoke her citizenship in March of 2016. Ms. B is a student at a Canadian university and has always considered herself since she came when she was 8 years old — I was 31 when I came myself; here's someone who came to Canada when she was 8 years old — first and foremost a Canadian. She has never lived in Egypt, does not speak the language. She has never made misrepresentations but is facing the loss of her Canadian citizenship because of her parents' alleged misrepresentation. As you heard from Senator Pratte and Senator McCoy, there is no recourse to due process.

We asked the department, we asked the minister, in committee, about safeguards that are in place to prevent miscarriage of this administrative process, and we were told that safeguards were present. One such safeguard is the so-called oral hearing. Not being a lawyer, I think of a hearing as a very formal process, with a desk and three people and someone sitting across from you. This hearing is actually a meeting with the same D122 who signed that letter.

So 235 citizenships have been revoked, and, in the letter that is sent, it says that you are entitled to an oral hearing. So I asked the question: How many citizens whose citizenship has been revoked or who were sent this letter actually got an oral hearing? Do you want to take a guess how many, colleagues? Zero. The minister told the Social Affairs Committee on March 1, "We are committed to procedural fairness," and this procedural fairness is what this amendment is about.

So this brings me to our amendment, which is the pendulum in the middle, fast but fair. The features that I will describe to you are not bells and whistles; they are the bare basics of due process. One, the individual will get a personal service of revocation where reasonably doable. Where the person cannot be found because they moved away and nobody knows where they are, a substitutional service order will be available, which means maybe the individual's mother or best friend or someone who can be substitutionally served. If the person still cannot be found, the minister may then apply to the court for dispensation and proceed with revocation.

Second, the notice to the citizen must provide clear information and rights specified. It must specify, one, the right to make written representations; two, the form and manner in which the

representations can be made; three, the grounds and reasons, including reference to any materials on which the minister is relying to make the decisions; and four, the right to request going to Federal Court without leave.

The individual has 60 days to write back and make representations to defend themselves, including humanitarian and compassionate grounds, like Ms. B that I talked about, which the minister must consider, not "may" consider. Currently, the regulations say that the minister "may" consider. We're saying the minister "must" consider. If the individual chooses not to respond within the 60 days, then they have no further recourse. For this right, you use it or lose it, but the citizen can choose to respond in 60 days and say, "See you in court."

At this stage of the process, the minister can decide, "I don't want to go to court anymore. This is a straightforward case. I have new information in front of me. I'm going to make a decision based on the best interests of the child or based on humanitarian or compassionate grounds, or the alleged fraud actually didn't happen." The minister can choose to drop the case. So these cases can be swiftly and efficiently closed.

If the minister, however, still believes and is not convinced that fraud did not occur, then he refers the case to court. There is no leave requirement. There is no discretion, period. This is due process.

At the Federal Court's trial division, the individual has a trial. There is full disclosure. New evidence can be presented. The onus is on the minister and the department to prove, on balance, the fraud, and then the Federal Court decides on revocation or no revocation.

After a Federal Court decision, there is a limited right of appeal, as Senator Pratte pointed out, to the Federal Court of Appeal. As Senator Pratte has already outlined, it is only granted if there is a serious question of general importance.

So I want to drive home two rights. First, the right to go to Federal Court and there, at a trial *de novo*, the right to full disclosure of the case against you. Senators, we are not talking about giving people cake. We are not talking about bells and whistles. These are the bare bones of law — the right to a trial with full disclosure, procedural justice, fairness and natural justice, a day in court, hearing the evidence against you. Anything less is an affront to all citizens.

• (1510)

Here is what I am asking of us, senators. This amendment corrects a serious injustice to Canadians. It creates due process where there is none. This amendment, on balance, gets it right. I look forward to sending it to the other place with your support. Thank you very much.

The Hon. the Speaker: Would you take a question, Senator Omidvar?

Senator Omidvar: Always.

Hon. Carolyn Stewart Olsen: Thank you, Your Honour. I'm not not in favour of this amendment, but I have a huge question in my mind as to when we directly asked the minister about this, he was very noncommittal and didn't give us any grounds whatsoever. So I'm a little nervous that there may be some other reason that we don't know about behind the minister not addressing this and not bringing it forward in the bill. I don't want to err on security sides or anything like that. I certainly understand where you're coming from.

This will be a very costly procedure for the litigant. Not very many people are going to have the amount of money it's going to take to go to federal court, et cetera. Also, many judges are not going to have the experience to litigate and make decisions.

The Hon. the Speaker: Senator Omidvar, your time has expired. Are you asking for time to answer the question?

Senator Omidvar: Yes.

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

Hon. Senators: Agreed.

Senator Stewart Olsen: If you could help me with those questions, I would appreciate it.

Senator Omidvar: Senator Stewart Olsen, you were there during the committee, so I know where you're coming from.

On the first question, the minister was noncommittal and less forthcoming than Minister McCallum has been in public. I can't comment on that. I can only say and read what he said. He is committed to procedural fairness and looks forward to our proposals. My interpretation of that is not to try and second-guess his position. Let's do our job, send it to the other place and see how they respond.

The second question was around cost. Will it cost a lot of money? Well, it costs litigants a great deal of money. This is a concern we have. It would cost roughly $20,000 to go to court. I think it's a fairly prohibitive issue. To give you an example, people get enraged when fundamental rights are taken away. Right now, the BCCLA is handling the cases of at least 100 citizens who are challenging their citizenship revocation through another route with the BCCLA. I hope that helps you a little.

The Hon. the Speaker: Senator Lang, did you have a question?

Hon. Daniel Lang: Yes. I don't think anyone would argue that one should have an appeal. Obviously, as you've pointed out, there is an appeal procedure already because there are 100 applicants, as you indicated, that are actually going through an appeal procedure through some other mechanism. You may want to clarify that.

My concern is that it's well known that the processes that have been set up through the immigration laws that were put in effect over the years, that for those that have the ability and the financial capabilities, they can go on for years and years without any definitive decision being made. Was that raised during the course of the debate in structuring this bill? If one does use the appeal process, is there a time frame that has to be met for a decision to be made?

Second, you've indicated that the government was involved in this bill. Was this amendment drafted by the department for your consideration?

Senator Omidvar: Thank you, Senator Lang. There are always many questions, which I will try and answer.

The first question was about the litigation with the BCCLA. I think they are not appealing to a federal court of appeal. I'm not a lawyer, but they're challenging the decision on constitutional grounds, my colleague tells me, which is different.

The second question was how long does it take?

Senator Lang: How long would it take to go through this appeal procedure for a decision?

Senator Omidvar: I don't know if a time limit has been set. I don't know if you can set a time limit for a court. I'm not a lawyer. I'm happy to get back to you on that question.

I will say the way we've structured the amendment is that not everyone whose citizenship is revoked gets to go to court, as I explained. If you're not able to serve the notice, then after certain processes, your citizenship gets revoked. No court.

If you decide not to respond to the minister in 60 days and say you want to go to court, no court. We have taken issues of scale into consideration. I don't know how long it would take for a case to be heard. I'd have to get back to you on that one. There was a third question there.

Senator Lang: Did the department draft this amendment?

Senator Omidvar: I'm happy to tell you, Senator Lang, that the department did not draft this amendment. This amendment was drafted with the help of the Law Clerk's Office. I got great help from Senator Pratte on it. It is our amendment.

(On motion of Senator Day, debate adjourned.)

TOBACCO ACT
NON-SMOKERS' HEALTH ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Petitclerc, seconded by the Honourable Senator Lankin, P.C., for the second reading of Bill S-5, An Act to amend the Tobacco Act and the Non-smokers' Health Act and to make consequential amendments to other Acts.

Hon. Judith Seidman: Honourable senators, more than 50 years ago the most successful public health campaign in Canada began, with the first salvo from Canada's Minister of Health of the time, Judy LaMarsh. On June 17, 1963, she declared in the other place:

> There is scientific evidence that cigarette smoking is a contributory cause of lung cancer and that it may also be associated with chronic bronchitis and coronary heart disease.

In a world where smoking was a firmly established culture associated with happiness, relief and leisure, this was a bombshell. But it also prompted the reversal of complete denial, even from the tobacco companies, that there was any evidence of health risks associated with smoking.

It is interesting to note that the day after Judy LaMarsh rose in the other place to admit publicly that the evidence had accumulated and could not be denied any longer, one of the largest multinational tobacco companies announced it would no longer air tobacco commercials when children would likely be watching, before 9 p.m.

So began this half century of addressing the public health problem of tobacco use, in Canada and around the world. At that time, about 50 per cent of Canadians smoked, 61 per cent of men and 38 per cent of women. Today about 13 per cent of Canadians are smokers.

The first legislation, an attempt to ban advertising of cigarettes, was enacted in 1989, only to be struck down by the Supreme Court in 1995. Currently, there are two federal acts that address tobacco products and their use at the federal level: The Tobacco Act, administered by Health Canada since 1997; and the Non-smokers' Health Act, administered by ESDC.

• (1520)

In 2001, the Federal Tobacco Control Strategy was introduced in Canada. It focused on smoking prevention for children and youth, smoking cessation, and second-hand smoke prevention. In 2005, Canada became party to the WHO Framework Convention on Tobacco Control.

This history is important to keep in mind today as we try to understand the legislation introduced here in the Senate, Bill S-5, An Act to amend the Tobacco Act and the Non-smokers' Health Act and to make consequential amendments to other Acts. Essentially, Bill S-5 amends the Tobacco Act to add and regulate vaping products as a separate class of products and aligns other existing acts to conform.

Bill S-5 also follows through with additional tightening of certain tobacco regulations. Now, with this legislation, we are faced with the question of how to regulate a new product on the market, the e-cigarette. In fact, there are differing opinions in Canada about what to do at this particular juncture: regulate, ignore and wait for more evidence about the product, or ban the e-cigarette all together.

In order to begin to think about Bill S-5 now before us, we must lay out some of the largest issues we're confronted with. What are vaping and the e-cigarette? What is the prevalence of e-cigarette use in the Canadian population? What is the scientific evidence to date on vaping and e-cigarette safety? What is the experience in other countries? What is the rationale for legislating in Canada now?

Honourable senators, many of us in this chamber will be unfamiliar with both the product, electronic cigarettes, and the process of vaping. Developed in 2003 by a pharmacist in China

and first introduced into the U.S. in 2007, the e-cigarette is one of a category of products called electronic nicotine delivery systems. The e-cigarette, a battery-powered device designed with the look and feel of a traditional cigarette, is meant to deliver inhaled doses of a nicotine-containing aerosol to users. It does this by heating a solution, commonly referred to as e-liquid, made up of the carrier compound propylene glycol, with or without glycerin, the nicotine, and a wide range of other additives and flavours. The flavours are many and include tobacco, coffee, menthol, fruits, candies, alcohols and some as delicious as watermelon, popcorn and cherry cheesecake.

The nicotine concentrations are not regulated, and users can modify many of the products in e-liquid as well as using it to deliver other drugs like cannabis.

The e-cigarettes used today reflect significant technological advances and are continually being refined to meet after-market demands. However, there is a wide variability in e-cigarette engineering that results in different mechanisms to heat and convert the nicotine solution to an aerosol. In all cases, batteries, some rechargeable and some not, and cartridges, some refillable and some not, are part of the engineering of an e-cigarette. Some also have electronic settings that permit the regulation of length and frequently of puffs as well as degrees of heat.

There has been rapid market penetration and increasing involvement in the vaping business by the major multinational tobacco companies. Sales are said to have doubled every year in the United States since 2008. Current estimates are for global sales of vaping products to reach $10 billion this year, and they're expected to surpass conventional cigarette sales over the next decade.

Unlike conventional cigarettes, e-cigarettes have been marketed through television, the Internet and print advertisements to promote a lifestyle as well as their use as a healthier alternative to tobacco smoking, for smoking cessation, and to reduce cigarette consumption. However, there is insufficient evidence to support such premises, and even less evidence about the risks of exposure in long-term use.

There are important questions yet to be answered about the safety of e-cigarettes to both the user and the second-hand bystander, the efficacy of e-cigarettes in harm reduction and cessation for smokers, the role of e-cigarettes as a gateway for youth to move on to the real thing, and the total impact of e-cigarettes on public health.

Today, there is a high level of concurrent dual use of both e-cigarettes and conventional cigarettes among adults and youth. The toxins users are exposed to and their health effects are yet to be assessed in their particular context. I will try to present a concise overview of the evidence around these large questions with the knowledge that when Bill S-5 is studied in committee, expert witnesses will address the scientific evidence that will guide us in our legislative decision making.

One of the first considerations must be, how extensive is this new phenomenon of vaping? In other words, what is the prevalence of e-cigarette use?

Understanding e-cigarette use, especially among young people, is critical because previous research suggests that nine in ten adult smokers first try conventional cigarette use during adolescence. Epidemiologic, population-based studies indicate that across countries, e-cigarettes are most commonly being used concurrently with conventional tobacco cigarettes. Among young adults, about 25 per cent of current smokers, 12 per cent of former smokers, and 3 per cent of non-smokers use e-cigarettes. Dual use with conventional combustible cigarettes is the predominant pattern in U.S. high school students, where 80 per cent of smokers are dual users.

In Canada in 2015, one in four Canadian youth aged 15 to 19 years reported ever having tried an e-cigarette and one in three young adults aged 20 to 24 years. The Canadian Student Tobacco, Alcohol and Drug Survey 2014-15 showed that 18 per cent of students in grades 6 to 12 have ever used an e-cigarette. The same proportion, 18 per cent, had ever tried smoking a traditional cigarette. In Canada, the smoking rate overall has fallen from 22 per cent in 2001 to 13 per cent in 2015, but the rate of decline is said to be slowing in recent years.

To respond to what is now considered a growing need because of the increased use of e-cigarettes over the last decade, more scientific research has been and is being conducted to assess the safety of e-cigarettes. Analysis of numbers of published articles has shown a database that has grown exponentially since 2012 from less than 100 studies to more than 1500 in 2016. However, most do not report a study sample or a sample of significant size, nor do they address some of the most important issues.

There have been at least two significant reviews of published e-cigarette studies over the last two years. There are three completed, small, randomized clinical trials, the gold standard in clinical studies reported to date. An important note is that 14 trials are now in progress. These will provide some compelling data and evidence on the use and safety of e-cigarettes.

The three completed small trials do not provide strong evidence that using e-cigarettes to aid in smoking cessation is effective, nor that serious adverse events are associated with e-cigarette use in the short term. Long-term safety of these devices remains unknown.

There are four large issues to be considered when examining the scientific evidence on vaping and e-cigarette safety, and these I have already alluded to: as an aid in smoking cessation, as a gateway for youth to tobacco use, the toxicity of the emissions in the inhaled vapour, and potential risks from second-hand exposure to vapour.

The limited number of studies to date did not provide sufficient evidence that e-cigarette use is effective in smoking cessation. Despite the limited evidence base, it is generally agreed that e-cigarettes are safer than combustible tobacco cigarettes.

In 2016, a total of 24 studies, including three randomized clinical trials, were reviewed. Two of the trials, with a total of 662 participants, showed that people using e-cigarettes with nicotine were more likely to stop smoking for at least six months compared with those who received placebo e-cigarettes without nicotine.

• (1530)

One other trial compared e-cigarettes with nicotine patches and found similar effectiveness in six-month smoking cessation rates. As for safety, none of the trials showed a difference in adverse events between e-cigarettes and placebo.

Some suggest that e-cigarettes are less harmful as they reduce exposure to combustible tobacco. So, for example, cardiovascular risks associated with smoke are dose-dependent. To reduce the number of cigarettes smoked from a pack a day to 10 a day would reduce risk.

One fear is that e-cigarette use will serve as a gateway to tobacco addiction for a new generation of users. The evidence is not yet in, but a recent review by the University of Victoria suggests that tobacco use in the U.S., Canada and other countries is declining significantly among 12- to 19-year-olds as vapour device use is increasing.

The U.S. Surgeon General released a report in 2016 indicating that 25 per cent of students in Grades 6 to 12 had tried e-cigarettes. According to the same U.S. Surgeon General Report, exposure to nicotine during adolescence may adversely affect cognitive function and development. The critical issue that remains is that nicotine is a very addictive substance. E-cigarettes may stop tobacco use but not nicotine use, and may ultimately lead to the use of conventional tobacco products.

A larger public health question is whether e-cigarettes will contribute to the renewed normalization of smoking and of tobacco-containing products.

There are serious concerns about the health effects associated with vapour devices and their emissions, the compounds found in the vapour mist. Vapour devices do not deliver tar, and emissions do not contain 61 of the 79 cigarette toxins. However, vapour products on the market are unregulated; standards and measurement of vapour device emissions have yet to be fully addressed. A recent 2016 study, published in the journal *Environmental Science and Technology*, identifies more than 31 compounds generated with vaporizers and states there are many more yet to be identified.

According to the University of Victoria study just published, *Clearing the Air: A systematic review on the harms and benefits of e-cigarettes and vapour devices*, no independent research has measured vapour device emissions of BDE, the highest source of cancer risk in cigarettes. The vapour device itself, depending on its design, voltage, number of coils and buildup of by-products from the vapour liquid that degrades upon heating, produces harmful emissions that are expected to be ubiquitous when e-cigarette vapour is present. So the risks from the emissions differ among products but also can be conditioned by user behaviour such as the number and depth of puffs.

Second-hand exposure to vapour from e-cigarettes has been tested to some extent and is found to be less toxic than cigarette smoke as it does not contain carbon monoxide or volatile organic compounds. However, the vapour does produce a measurable absorption of nicotine in bystanders, and how to measure that risk is not yet clear. All reviews of second-hand exposure have called for more testing to clarify the conflicting findings on the emissions of particulate matter, metals and other substances.

Honourable senators, Bill S-5 amends the Tobacco Act, the Non-smokers' Health Act, the Food and Drugs Act and the Canada Consumer Product Safety Act. The intent is to make these existing pieces of legislation coherent with the primary purpose of Bill S-5, that is, to regulate vaping products as a separate class of products under the Tobacco Act. As such, the Tobacco Act would be renamed the Tobacco and Vaping Products Act.

Bill S-5 states, in its long title, that it is "An Act to regulate the manufacture, sale, labelling and promotion of tobacco products and vaping products." Of course, it introduces new definitions necessary to vaping and e-cigarettes.

Bill S-5 is a complex piece of legislation that also implements plain packaging for tobacco products. I plan to focus today on the more contentious issues in Bill S-5 as identified by the many stakeholders I have met with over the past couple of months. They include associations, societies and charities in the health field that represent patients, consumers, researchers and health professionals, as well as manufacturers, retailers, factory workers and law enforcement.

First of all, it is important to know that because nicotine is a drug, it is subject to the requirements of the Food and Drugs Act, and must be authorized by Health Canada prior to sale based on evidence of safety, efficacy and quality. It was quite a surprise for me to discover that no vaping product has been authorized to date in Canada and all nicotine-containing vaping products are being sold illegally.

Vaping products not intended for use with nicotine, and without therapeutic claims are legally available without authorization and are subject to an aftermarket regime under the Canada Consumer Product Safety Act, not under the Tobacco Act.

This is the current state of affairs around vaping and e-cigarettes in Canada. Clearly, we have a situation that does not address the increasing use of e-cigarettes by young people, as well as by current adult smokers. The consensus among all stakeholders is that federal leadership on vaping products is required.

Honourable senators, Bill S-5 does not merely amend the Tobacco Act and apply all existing tobacco restrictions and requirements to vaping products. Rather, Bill S-5 makes exceptions or offers alternatives for e-cigarettes.

So what differentiation does Bill S-5 make between tobacco cigarettes and e-cigarettes? This is the area where some controversies exist.

Of importance is that all restrictions of access and sale of tobacco cigarettes to those under 18 years would also apply to vaping products. These include the ban of sale of all vaping products to youth under the age of 18 years, no vending machine sales and age verification with postal delivery for online purchases.

In addition, flavour ingredients that appeal to youth are prohibited, such as confectionery, dessert, cannabis, soft drink and energy drink. Also, the manufacture, promotion and sale of

vaping products with ingredients that give the impression that they have positive health effects are prohibited, such as amino acids, probiotics, caffeine and vitamins.

However, as of yet, no standards for maximum levels of nicotine contained in the vaping liquid have been established.

Perhaps the aspect that has created the most controversy in Bill S-5 is in the area of marketing and promotion. While virtually all marketing has been banned for tobacco cigarette products, that will not be the case for e-cigarettes. So-called "information advertising" will be permitted with no restrictions, that is: brands, logos, ingredients and pricing will be available on the Internet, television, billboards and other places.

Whatever health warnings there will be on vaping products would focus solely on the nicotine content and addictiveness. Thus, it is important to note that packaging restrictions will not be the same as they currently are for tobacco products. Lifestyle advertising will be permitted only for adults through mail-outs, coupons and in adult environments.

Much discussion has focused on whether there should be the right to advertise "harm reduction," or what is often referred to as a "continuum of risk."

The argument has been made that health claims should be made in a comparative way among all tobacco and vaping products, for example, to advertise that an e-cigarette reduces your risk of cancer and cardiovascular disease when compared with the tobacco cigarette or that chewing tobacco is less harmful than smoking combustible cigarettes. With Bill S-5 protection, health claims such as these must be tested in the very same way as for pharmaceuticals in Canada: with the requirement for the usual scientific evidence based on clinical trials and final approval by Health Canada.

Regulations in Bill S-5 do build in additional authorities for the flexibility of a pathway to market based on emerging evidence. So as the science improves and the studies demonstrate more conclusiveness, regulations can be amended to become either more restrictive, narrowing the scope of use, or less so and broadening it.

As the legislation is written, no claims can be made, even to adults, regarding cessation, toxins or second-hand smoke exposure unless the scientific evidence demonstrates enough certainty in this regard. Products would have to meet existing pre- and after-market requirements for safety, quality and efficacy, as in the case of all new pharmaceuticals covered by the Food and Drugs Act.

• (1540)

Also written into Bill S-5 are regulatory authorities that will require industry to report to Health Canada on product sales and research, as well as maintain ongoing data collection and surveillance that includes incident reporting and recalls, in order to provide transparency for Canadians.

In addition, use of vaping products would be subject to the very same prohibitions as tobacco in federally regulated workplaces.

The summary statement on the very first page of Bill S-5 states that these amendments to the Tobacco Act are in response to the Report of the House of Commons Standing Committee on Health entitled *Vaping: Toward a Regulatory Framework for E-Cigarettes*. Indeed, most of the recommendations of the committee have been implemented in Bill S-5.

Specifically, the committee noted that the current regulatory regime for electronic cigarettes in Canada has been in place since 2009, when Health Canada issued a notice cautioning consumers that e-cigarettes may pose health risks, but none were regulated through safety standards. The committee in the other place did recognize the serious confusion about nicotine contents in e-cigarettes that has persisted and makes it clear that there is some urgency for legislation.

There are two other important reports to consider while thinking about our own situation in Canada. Since 2015, both the WHO and the U.S. Surgeon General have issued recommendations to legislate standards for the manufacturing, distribution, marketing and sales of e-cigarettes. The U.S. Surgeon General concluded that e-cigarettes are a rapidly emerging and diversified market class to deliver nicotine and flavourings, and presently surpass conventional cigarette use among youth. The most recent 2016 U.S. Surgeon General's report laid out policy and practice implications for evidence-based strategy to specifically address e-cigarette use among youth and young adults.

These recommendations include extending FDA authority to all tobacco products, including e-cigarettes, the incorporation of e-cigarettes into smoke-free policies, prevention of sales to youth, significant increases in taxes and price, regulation of marketing to youth, and ongoing research and surveillance that will maintain and update e-cigarette regulations at the federal level to protect public health.

A WHO report on e-cigarettes, both nicotine and non-nicotine systems, was prepared for a meeting late last year, November 2016, in Delhi, India, of the 180 countries that had signed the Framework Convention on Tobacco Control. The report attempted to cover updates on the evidence of the health impact of e-cigarettes, their potential role in tobacco cessation, consider methods to measure contents and emissions of these products, and assess policy options.

Essentially, WHO's report finds inconclusive scientific evidence on e-cigarettes in tobacco control, health risks, second-hand risks, cessation or as a gateway or precursor to smoking. However, WHO does suggest policy options to achieve objectives that especially protect youth and prevent unproven health claims.

The public health community is not unanimous over the WHO report. Some say WHO attempts should be to combat tobacco use, not regulate nicotine use. Some say it is already clear that the health risks of using e-cigarettes are much lower than for combustible tobacco. And, overall, there is a clear understanding that e-cigarettes should be regulated, should not be promoted among youth, and should be subject to ongoing monitoring and surveillance of health effects, risks and benefits.

Honourable senators, at this time in Canada, all regulation of e-cigarettes takes place at the provincial or municipal level. Newfoundland, Prince Edward Island, Northwest Territories

and Yukon have no regulation at all. Nova Scotia, one of the first provinces to implement significant restrictions on e-cigarette sales in Canada, passed legislation that treated e-cigarettes as conventional tobacco cigarettes in May 2015. New Brunswick passed similar legislation to Nova Scotia. Saskatchewan, Manitoba, British Columbia, Alberta and Ontario have very basic restrictions that relate solely to the location of use of e-cigarettes and restrict them as in conventional tobacco cigarettes.

My home province of Quebec adopted the strictest e-cigarette legislation in North America, in 2015. Bill 44 amends the Quebec Tobacco Act and makes e-cigarettes and any other similar devices, including their components and accessories, subject to the very same regulations as tobacco products. The display and sale of e-cigarettes is restricted to specialized retail outlets. In the attempt to protect youth, sales by Internet, phone or other means are prohibited, as are online advertisements or window display posters for promotional purposes. Quebec's Bill 44 has been highly criticized by the tobacco industry, and vaping shops have filed a legal challenge in Quebec Superior Court.

Honourable senators, I must address another change to the current Tobacco Act proposed in Bill S-5. According to Health Canada, tobacco packages and the products they contain have remained powerful promotional vehicles for the industry to communicate positive brand imagery and attract new tobacco users, especially youth. To combat this, the proposed "Tobacco and Vaping Products Act" would provide the flexibility to support implementation of a range of options such as standardized colour, font and finish, and prohibitions on promotional information and brand elements, such as logos. The cigarette pack is said to be a valuable marketing tool, especially for youth.

There have been many studies, using focus groups and even randomized trials, to try to learn whether package distinctions impact youth and adult smokers; specifically whether their perceptions of the health risks of smoking, the perceived appeal of tobacco products, and attitudes toward smoking, are influenced.

As of this writing, consultations on the future of tobacco control in Canada are under way and will not be complete until mid-April. The actual standard for plain packaging is yet to be determined. It is also unclear whether Bill S-5 will require the trademark removal from the actual cigarette tube. If so, if all distinctive markings are to be removed from both the outside package and the inside, including on the actual cigarette, fears are that there will be no way to ensure the authenticity of the product.

In order to ensure safety and standards — that the ingredients are what the law and regulations proscribe and what the tobacco companies report to Health Canada — some state that the authenticity of the cigarette product must be readily visible to the purchaser.

According to some sources, contraband cigarettes are manufactured in more than 50 illegal factories throughout Canada and operate outside of any government regulations or oversight. They are sold to Canadians via more than 300 illegal smoke shacks and a criminal distribution network. More than one in three cigarettes purchased in 2014 were said to be illegal and more than $2 billion claimed to be uncollected due to contraband tobacco.

Contraband tobacco's low price and easy accessibility make it a prime source for youth smoking, and evidence suggests that schoolyards are used as a location for sale of contraband. More than any other characteristic, price point seems to be the single most important feature that sells a cigarette to youth.

It is said that this proposal for plain and standardized packaging of tobacco products has the potential for serious and harmful "unintended consequences" in several domains. It may increase the likelihood of contraband and counterfeit products; increase youth gangs and violence around the schools where contraband is often made available; increase economic hardship for small grocery store owners who already conform with all the existing restrictions on cigarettes; reduce consumer assurance of certain standards and even the safety of a product whose ingredients are transparently reported by the tobacco company; and create hardship for Canadian workers who are employed in the industry.

In addition, tobacco companies have argued and challenged such plain packaging on the grounds that it violates international trade and trademark laws.

• (1550)

Australia is the first country that legislated plain packaging for cigarettes, enacted in 2012. Two more countries, France and the U.K., will have fully legislated plain packaging for tobacco cigarettes by mid-2017. Both New Zealand and Ireland are in the process of the final stages of their particular legislation as well.

In March of last year, the World Health Organization released an executive summary of Australia's measures concerning tobacco products and packaging. Stated was that, indeed, Australia had witnessed a decline in smoking prevalence rates between the years 2010 and 2013. Rates of daily smokers had declined from 16 to 13 per cent among those 18 years and older. However, there was some debate as to whether smoking had increased among those aged 12 to 17 years. And, according to a 2014 Australian National University study evaluation using Australian Bureau of Statistics data, plain packaging regulations had not affected tobacco use as measured by tobacco expenditures.

A media debate erupted as to the efficacy of plain packaging policies. Tobacco industry sources suggested that tobacco consumption had increased, as well as the illicit trade of contraband tobacco products. Anti-tobacco activists pointed to the Australian Bureau of Statistics data, indicating that while household expenditures on tobacco products had increased over 2013, it had dramatically fallen in the first quarter of 2014. A full recounting and analysis of the Australian situation was published in the journal *Agenda - A Journal of Policy Analysis and Reform*. The authors were clear that ideally the impact of policy change would be tested, examining the change in tobacco consumption, controlled for changes in price, income, population, et cetera.

To date, the success of plain packaging policy rests on very imperfect indicators. The question that must be asked is: Will the introduction of standardized packaging in Canada achieve its stated objective to make tobacco cigarettes less appealing to youth and reduce their consumption?

Honourable senators, in conclusion, Bill S-5 amends the Tobacco Act to regulate vaping products as a separate class of products and aligns other existing acts to conform. It also delivers on a commitment to implement standard plain packaging for tobacco products.

As the opposition critic for this bill, Bill S-5, I have met with many stakeholders representing industry, retailers, consumer groups, the unions, law enforcement, the charities, health associations and health professionals. Although their argumentation has been quite different, they all offer the same opinion as to the pressing need for legislation on e-cigarettes and vaping. Legislation and the ensuing regulations will allow for a rigorous monitoring system, implement safeguards and ensure standards across the country.

In my meeting with the Canadian Cancer Society, Canadian Medical Association and the Heart and Stroke Foundation, they expressed the opinion that this could be one of the most important amendments we make to the Tobacco Act in decades. But they are also clear when they say "We must get it right." So I hope that when this bill reaches the committee stage, expert witness testimony will help us do exactly that, "get it right," especially to protect our youth from return to an era of normalized smoking.

[*Translation*]

Hon. Marc Gold: Honourable senators, I rise to speak to Bill S-5.

[*English*]

Let me begin by acknowledging the very comprehensive and balanced presentation by the opposition critic. It really serves as an example of the value that one can add in debate.

[*Translation*]

I tip my hat to you.

I am in favour of Bill S-5 in principle. In particular, I support the objectives of protecting Canadians' health from the harm associated with smoking. I also support the idea of regulating minors' access to nicotine-based products.

Nonetheless, I have some reservations about the bill that I feel should be fully reviewed in committee. Accordingly, I completely agree with my colleague that the bill should be referred to committee as soon as possible so that all questions may be studied thoroughly.

[*English*]

Let me speak briefly about some of my concerns. Simply put, my central concern is that this bill may be too restrictive of the vaping industry and may unnecessarily limit or at least discourage the turn to vaping by those who are seeking to quit smoking.

As has already been mentioned, we don't have a large body of long-term studies, of evidence on the long-term health effects of vaping, nor on the efficacy of vaping as a means of stopping smoking tobacco products. But that doesn't mean that we have no evidence. I'm not talking here about anecdotal evidence, although it is quite abundant. Allow me to cite some.

[*Translation*]

Like me, my son started smoking at an early age, well before he was 18. Three years ago, he started vaping and has not smoked a single cigarette since. He also gradually lowered the nicotine levels in the liquid down to a minimal quantity. My wife smoked for nearly 35 years, but ever since she started vaping two years ago, she has not smoked any cigarettes. She uses a higher level of nicotine, but she doesn't smoke any more.

[*English*]

There is hope. But apart from anecdotal evidence — and we've all been bombarded with a ton — there is in fact the oft-cited study from the United Kingdom that concluded that vaping is far less dangerous to health than tobacco use. A more recent report of Cancer Research UK, which I understand is the world's largest independent cancer research charity, published in the *Annals of Internal Medicine*, also concluded that e-cigarettes are far safer than smoking.

To be sure, there's also the report of the U.S. Surgeon General that warns of the health hazards of vaping, and there is the further and very important question of evaluating the methodology underlying these and other studies and reports.

Nevertheless, there is a growing body of evidence to the effect that vaping is a far better and safer alternative to smoking. In light of this, I'm concerned that the prohibition in the bill, in clause 30.43(1), even with the exceptions in the bill, will make it difficult for smokers to be educated about the relative benefits of switching to a vaping product. The term to stress here is "relative." Vaping may not be 100 per cent without some risk to health, but I do believe that the evidence does establish that it is less harmful than smoking tobacco. Let us not let the best be the enemy of the good.

On a related subject, we've heard concerns expressed that vaping may be a gateway to smoking. This has been cited as an additional ground for prudence and justification for the relatively restrictive aspects of the bill. I get it, and I can certainly understand it. It's intuitively correct if we're talking about vaping a nicotine-infused liquid. That said, as my colleague underlined, it will be extremely important to hear from the experts as to whether vaping generally is a gateway to smoking and whether there is a distinction to be drawn between vaping nicotine and non-nicotine e-liquid or, as vapers call it, juice.

I also hope and expect that the committee will look at the issue of flavourings. I understand and share the concerns regarding the marketing of nicotine products to minors. But it is also important to allow vaping products to be not only available but attractive to those over the age of 18 who want to give up cigarettes. It's not clear to me in fact what the bill actually says or proscribes with regard to flavourings.

• (1600)

It speaks of not being able to display on a vaping product or its package an indication or illustration, including a brand element, that could cause a person to believe that the product is flavoured if there are reasonable grounds to believe that the indication or illustration could be appealing to young persons.

I would support restrictions on how vape products are branded and marketed, but I think it's important and I hope the committee will be mindful that the regulations and the law should not be so restrictive so as to deny to consumers a choice of flavours. Let's be clear; there are a lot of adults who have little kids inside of themselves and like the sweet flavours like bubblegum or cotton candy.

It's not at all to suggest that one should market to children, on the contrary, but people who use vaping products like the flavours and without those flavours will be discouraged from giving up cigarettes for vaping, and that's really my only concern.

To state the obvious, there needs to be a balance struck between avoiding advertising targeted at young people but unduly restricting both information and product that would be helpful in encouraging people to use vaping as an alternative to smoking. I assume and trust this will be examined in committee.

[*Translation*]

Finally, I have concerns about how this bill will affect small and medium-sized businesses that want to penetrate the vaping products market, particularly with regard to the distribution of vaping liquid or juice. True, there are serious and legitimate quality control issues that call for regulation, but the structure of the bill suggests, perhaps wrongly, that the focus is on large corporations and that independent SMEs may be excluded from the market. I encourage the committee to look into ways that SMEs can participate in what is and should remain a growing, viable market.

[*English*]

To conclude, I support many of the objectives of the bill and look forward to it being studied seriously in committee.

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

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.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator Petitclerc, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

CONTROLLED DRUGS AND SUBSTANCES BILL

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Campbell, seconded by the Honourable Senator Pratte, for the second reading of Bill C-37, An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts.

Hon. Carolyn Stewart Olsen: Honourable senators, I rise today to speak at second reading of Bill C-37, An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts.

Bill C-37 does a number of things, but what I really want to focus on in this speech are the extraordinary exceptions afforded in the so-called supervised consumption sites.

I'm frankly surprised that a government which stood so strongly against omnibus bills while in opposition has crafted a bill like this. The legislation before us combines supportable law enforcement improvements with what I consider an unsupportable drastic policy shift on our strategy for fighting illegal drugs.

This bill makes it easier to open one of the injection sites by reducing the restrictions in the application process and abolishing some of the administrative obstacles placed in the way of these sites by the previous government.

Seemingly, the government's rationale for this policy shift is that they wish to help solve the opioid crisis that is ravaging communities.

A new laissez-faire drug strategy is being adopted by the government which prioritizes something called harm reduction in place of the old strategy, which emphasized prevention and enforcement. "Harm reduction" in this government's terminology means a focus on reducing the negative effects of drug use rather than spending resources fighting it. In plain terms, would you rather help an addict shoot up or spend those same resources to get the drugs off the streets?

Supervised consumption sites, also known as injection sites or injection rooms, are places where people can use their own illegally obtained drugs with the assistance of taxpayer-funded medical staff and taxpayer-funded clean equipment with reversal

drugs available. Essentially, an off-the-street facility is provided where drug users consume their own drugs, street drugs, while medical staff supervise and assist.

Sites like these operated illegally in New York City in the 1980s and no doubt still do in some places to this day. The police refer to them as shooting galleries and have expended a lot of effort in shutting them down.

In Canada there is only one facility where this kind of service is available, legally at least, and I'm referring to Insite in Vancouver. Several other applications, however, are pending, including one here in Ottawa.

The current law in force is based on a piece of legislation passed in 2015 called the Respect for Communities Act. It followed a court ruling which forced the government to allow Insite to continue operating after the minister made it clear that the government of the day had no interest in facilitating drug abuse.

To open an injection site, now an organization must satisfy 26 criteria. In addition, there are other principles that the minister must satisfy when assessing a proposed injection site. These criteria are a real harm reduction strategy in that they help reduce the harm to communities, to schoolchildren and to the victims of drug abusers.

Health Canada cannot consider an application until all of these criteria have been satisfied, and when renewing the application, the facility has to check to ensure all the requirements are fulfilled.

The list of criteria was put into place to ensure the safety of communities where they would open. We should not forget that drugs are illegal and harmful to all.

The bill before us, Bill C-37, would change all of that by replacing the list of 26 criteria with five generic factors. These factors were taken directly from the court ruling that started the debate.

If this bill passes, all an injection site would need to address is the impact on crime rates, local conditions indicating need, available supports for the facility and comments from the community. It is very unclear how the crime rates would be assessed, which measures the government would require to demonstrate need or how comprehensive community consultations would be.

The application process proposed in this bill is less rigorous, and a minister can move forward on approving a facility even without the completed application package. This suggests to me that the site may now be approved because of political pressure imposed on the minister rather than an assessment of the impacts these places have or the wishes of the community.

Existing sites will not need to submit new applications for renewal, and the process of revalidating the criteria will become a simple information check in case something has changed. There will be no more assessments or reviews to ensure that these sites fulfill an apparent need or that they have not become a negative force in the community.

Senators, when we have such a drastic shift in policy like this before us, we must consider the public health implications for this and the effect it would have on public safety.

The government's responsibility to Canadians is twofold. Canadians must be protected from criminals, and they must be protected from harmful substances.

• (1610)

We need to re-evaluate Insite in B.C. to see if this kind of approach has had a meaningful impact or, rather, does it do everything that proponents promise it will?

Insite opened in 2003 with funding from British Columbia's provincial government. The site has 12 spots for clients to inject. The product which they use is not provided; it's purchased illegally by addicts and brought into the facility.

In 2006, the federal health minister established an expert committee to evaluate Insite. The findings, published in 2008, were uninspiring. It found that Insite claims to save a life every year that would otherwise be lost to an overdose. Annual overdose deaths in the area around Insite run up to about 50 a year. The minister's committee noted that this claim should be taken with a bit of caution, since it was based on a mathematical modelling rather than on a direct data source.

Part of the reason Insite opened was to try to get ahead of the HIV epidemic in the 1980s and 1990s. The 2008 report noted there was no evidence to suggest Insite had any impact on reducing the local HIV infection rate.

When commenting on the rate of drug-related crimes in the area, the committee did not note any change and went as far as noting a similar facility in Europe was closed because of drug-related loitering.

Most importantly, senators, the report found no evidence to suggest that Insite reduced drug use or general crime rates.

One of the arguments advanced to support injection sites is that they somehow reduce the rate of addicts shooting up in public. This claim is questionable for the simple reason that such sites could never accommodate the thousands of drug addicts in large urban areas, unless it is the government's intention to open a site on every corner.

And the research around these places does not consider the impacts other factors have on public drug use. The availability of a given drug, the presence of local police, the popularity of other methods of drug use, even the weather, are all factors which impact the usage of the sites.

One example from this kind of correlation can be seen in Australia. Sydney opened a supervised injection site in the 1990s which has been evaluated several times. In 2001, the site, known as Sydney Municipally Supervised Injection Centre, reported there was a downward trend in local thefts and robberies, but at the same time, separate data indicated there was also a so-called

heroin drought in the city at the time of the study. Naturally, less drugs means less drug use. There was no definitive evidence to establish that this facility had reduced crime rates.

A government-funded evaluation noted that the overdose rates at the injection site were actually 36 times higher than those injecting on the streets. This is hardly surprising given that the facility enables what appears to be risk-free drug binging. The report noted that clients "may have taken more risks and used more heroin than in the [injection facility]."

When testifying before the New South Wales Legislative Council in July 2007, an ex-user of the facility noted:

> [The clients] feel a lot more safer, definitely because they know they can be brought back to life straight away. . . . What users look for in heroin and pills is to get the most completely out of it as they can, like virtually be asleep but awake for four - five hours. For instance, to get that you have to test your limits. And by testing your limits that is how you end up dropping . . . .

Similar reasoning can be used to discount the claims that these sites increase public safety by reducing the amount of needles discarded in public. Most injections in Vancouver do not happen at Insite and in fact just couldn't. The numbers are simply not there.

The one unambiguous public health success Insite seems to have had was when the government used Insite as a vector for immunizing patients during an outbreak of pneumococcal pneumonia in 2006.

While medical studies have been generally supportive of Insite — it just sounds so good — studies appearing in *The Lancet* and the *British Medical Journal*, among others, leave room for some healthy skepticism.

The views of the community around Insite during the minister's evaluation were also interesting. While locals were somewhat supportive of Insite and not likely to associate it with crime, a considerable number of people did feel that, nevertheless, property crime and violent crime had gone up.

This is hardly surprising given that 80 per cent of the clients are criminals who have been to jail at some point, 51 per cent of whom use heroin on a daily basis and 38 per cent of which engage in some sort of sex work to fuel their habits.

The Canadian Police Association supported the regulatory structure imposed by the Respect for Communities Act. Tom Stamatakis, the association's president, noted at committee that supervised injection sites "lead to an increase in criminal behavior and disorder in the surrounding community and have a significant impact on police resources."

When Ottawa began deliberating the opening of an injection site in Sandy Hill, Senator White, a former local police chief, told the *Ottawa Citizen* there will be an increase in the amount of people using needles.

The current Chief of the Ottawa Police Service commented in January:

> We remain concerned that locations will attract crime and disorder. As such, any location selected needs to have community support and an understanding of the realities and issues brought about by having a Supervised Consumption Site in your neighborhood.

These concerns are why legislation currently enforced requires so many conditions.

Returning to the criteria in force, the Respect for Communities Act, requires that an applicant demonstrate with specific data that these kinds of facilities have proven positive impacts on public health.

The act also required that the applicant research potential impacts a prospective facility would have on public safety, which would have to be supported by any information on the prevalence of drug use in the area and the local death rates from overdoses and other factors.

The consultation process established in the existing act is expansive. It requires applicants to talk to community groups, individuals, doctors, nurses and to seek written opinion from local health authorities, provincial governments and public safety agencies. It also protects drug users in that the staff are required to undergo screening and the equipment must be part of a process or procedure that ensures safe storage and use.

I do not support supervised injection sites. I believe they are a poor replacement for effective prevention of drug use and law enforcement. However, if the government must move forward with facilitating these sites, it is incumbent upon them to ensure they are necessary, safe and effective.

I do not see definitive evidence suggesting that these sites are any more effective than the strategy pursued by the previous government. Harm reduction means removing the poison that is afflicting our communities and not inviting it in.

I cannot vote for this bill, and I urge other senators to take a thorough look.

Hon. Larry W. Campbell: Would the senator take a question?

Senator Stewart Olsen: Of course.

The Hon. the Speaker: Before the question is asked, Senator Stewart Olsen, your time has expired. Are you asking for time to answer a question?

Senator Campbell: Time to answer this question, yes.

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

Hon. Senators: Agreed.

Senator Campbell: Thank you, honourable senators.

The first question I have is: The government study that was done in 2005-06, reporting in 2007, was it peer reviewed?

Senator Stewart Olsen: It was actually an independent study, and there were physicians. It was an independent review.

Senator Campbell: For the information of senators, there's a large difference between peer review and independent review. An independent review is simply put out by a bunch of people expressing their opinion, and in many cases they're valid.

Peer reviewed is where your peers actually review it and it gets published in a magazine.

• (1620)

I would add that Insite has 40 peer-reviewed papers that have been published in various and sundry publications.

I'd like your comment on this quote:

> Insite has been proven to save lives with no discernable negative impact on the public safety and health objectives of Canada.

That quote is from the Supreme Court of Canada.

Senator Stewart Olsen: Senator, you and I come at this from the same perspective, essentially. You have seen the end results, I would say, of the people who have succumbed to drug overdoses. I have also seen the results of people coming into emergency rooms with the drug overdoses and bringing them back.

I'm not arguing that we don't need to do enormous amounts to help addicts and to get drugs off our street. I am arguing that I can't support the injection sites and Insite. I could never assist someone to put what I consider poison in their arms. I have seen the results of this, and I can't think of anything that I could consider worse.

I also could never support something that I consider "out of sight, out of mind." It's a nice place to put it way in the back — "get the people off the streets so I don't have to look at them" — and never re-evaluating.

As I say, I think you were instrumental with Insite, and I credit you for that, because I know you're sincerely trying to help. I know you've dealt with the results of drug abuse. I have dealt with it as well. I just don't think these are an answer.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Campbell, seconded by the Honourable Senator Pratte, that this bill be read the second time.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

(On motion of Senator Campbell, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

GENETIC NON-DISCRIMINATION BILL

MESSAGE FROM COMMONS—AMENDMENTS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-201, An Act to prohibit and prevent genetic discrimination, and acquainting the Senate that they had passed this bill with the following amendments, to which they desire the concurrence of the Senate:

Page 6, after line 32, the following new clause:

"COORDINATING AMENDMENTS

11 (1) Subsections (2) and (3) apply if Bill C-16, introduced in the 1st session of the 42nd Parliament and entitled An Act to amend the Canadian Human Rights Act and the Criminal Code (in this section referred to as the "other Act"), receives royal assent.

(2) On the first day on which both section 1 of the other Act and section 9 of this act are in force, section 2 of the Canadian Human Rights act is replaced by the following:

2 The purpose of this Act is to extend the laws in Canada to give effect, within the purview of matters coming within the legislative authority of Parliament, to the principle that all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

(3) On the first day on which both section 2 of the other Act and subsection 10(1) of this Act are in force, subsection 3(1) of the Canadian Human Rights Act is replaced by the following:

3(1) For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered."

ATTEST

MARC BOSC

Acting Clerk of the House

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

(On motion of Senator Day, amendment placed on Orders of the Day for consideration at the next sitting of the Senate.)

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON MARCH 28, 2017, ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of March 8, 2017, moved:

That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, March 28, 2017, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;

That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;

That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and

That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of March 8, 2017, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, March 28, 2017, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-234, An Act to amend the Parliament of Canada Act (Parliamentary Artist Laureate).

Hon. Patricia Bovey: Honourable senators, I rise today as sponsor and in support of the bill, Bill S-234, An Act to amend the Parliament of Canada Act (Parliamentary Artist Laureate). This bill was brought forward by our former colleague Senator Moore to create a visual artist laureate on Parliament Hill in the same spirit and with the same reasoning as our poet laureate.

You have already heard me talk about the visual arts being an international language, giving non-verbal expression to the soul and substance of who we are as Canadians. A visual artist laureate on the Hill will bring the public perspective of Parliament, the importance of our democracy today, and the issues and work of parliamentarians to the fore for every

Canadian in ways that will communicate to all: to life-long and new Canadians, and immigrants and refugees, regardless of their mother tongue.

As Senator Moore said at second reading, a visual artist laureate is quite different from the Governor General's Awards in Visual and Media Arts. A Governor General's Award in Visual and Media Arts is a $25,000 prize, and eight are awarded annually. Each year, the Governor General winners have a group exhibition, usually at the National Gallery of Canada. This year, it is at the Winnipeg Art Gallery opening on April 7.

The word "laureate," which comes from Middle English, denotes a person honoured for distinction in a particular field. A visual artist laureate would be a creative posting for two years, gained through a competitive process. The position would serve both as an arts ambassador and as creator of work related to Parliament Hill and the issues parliamentarians are discussing. An honorarium and materials budget would be paid, and in some jurisdictions, artist laureates are also afforded solo exhibitions. This, I hope, would be the case here.

Many states, including New York, South Dakota and New Hampshire, have visual artist laureates. Australia and the U.K. have children's laureates, Leigh Hobbs and Chris Riddell, respectively.

• (1630)

Named in 2015 for two years, Riddell incorporates the power of the visual in his role. He does daily online illustrations saying, "I want to show how much fun you can have drawing." I can assure you that he is certainly increasing the enjoyment of reading for many young British children, my grandchildren included.

While Parliament has never had a visual artist laureate, Canada is not without precedent in having visual artist laureates in various jurisdictions. Indigenous artist Christi Belcourt received the Ontario Arts Council's Aboriginal Arts Award Laureate in 2014.

Last year, the City of Toronto appointed Geoffrey James as that city's first photography laureate, Toronto's ambassador for the visual and photographic arts, to champion, promote and attract people to photography and visual arts, to attend public events, engage in discussions of contemporary issues, and to create a unique legacy project. His is a three-year appointment, with an annual $10,000 honorarium. On the announcement of the appointment, the mayor said:

> Photography is a powerful way to tell Toronto's story — to show our city's diversity, talent and beauty.

[*Translation*]

That would certainly be the case for a parliamentary artist laureate, no matter whether the medium was painting, printing, sculpture, drawing, video, film, installation or photography.

Honourable senators, Bill S-234 would amend the Parliament of Canada Act to create the position of parliamentary artist laureate. The artist laureate would be an officer of the Library of Parliament, just like the Parliamentary Budget Officer and other officers of Parliament, in order to ensure his independence.

[*English*]

As drafted, the Speakers of the Senate and House of Commons shall select the artist laureate from a list of three names provided by a committee, chaired by the parliamentary librarian. As currently stated, the committee would include the Librarian and Archivist of Canada, Canada's Commissioner of Official Languages, the Chair of the Canada Council for the Arts, and the President of the Society of Canadian Artists. I would propose the Director of the National Gallery, rather than the librarian and archivist, the CEO, not the chair, of the Canada Council for the Arts, and that the Chair of the Royal Canadian Academy of Arts be considered as well.

[*Translation*]

The artist laureate would serve the speakers of the two chambers for no more than two years and would be mandated to promote the arts in Canada through Parliament. He would produce or cause to be produced artistic creations. At the request of either Speaker, he would produce works for the use of Parliament or even for ceremonies of state. The artist laureate could also sponsor artistic events and give advice to the Parliamentary Librarian regarding the Library of Parliament's collection and acquisitions to enrich cultural holdings. In addition, at the request of either Speaker, the incumbent could carry out related duties.

[*English*]

What would the benefits be to Canadians? The portrayal and communication to Canadians of the work of Parliament and our national issues. As Calgary's poet laureate, Derek Beaulieu, has said, to be "a lever for cultural change."

It has been stated many times that "the arts are the most powerful tool we have for social change." In dealing with issues of poverty, race discrimination, crime prevention, health and more, we need these tools more than ever before.

Simon Brault, Canada Council for the Arts CEO, wrote in his book *No Culture, No Future*:

> Arts and Culture cannot save the world, but can help change it. . . . Art's power to transform and enchant is gaining ground. . . . Culture is the future.

In the all-party parliamentary report of 18 years ago, *A Sense of Place — A Sense of Being*, it was said that, "The role of artists is not only to mirror the values of the society in which they live, but also to reflect on the issues that society must address if it is to know itself better."

That, colleagues, would be the role of a visual artist laureate — to mirror and interpret the work of Parliament, the issues on which we deliberate, and to reflect on what is seen, heard and perceived, consciously and unconsciously.

I am also truly concerned about the lack of understanding our children and youth have about the role of democracy, the workings of Parliament, and the consequential low rates of youthful voters. The work of a visual artist laureate can help address that gap in the knowledge of civics.

I think the work of our visual artist laureate would be inspiring to all, opening new doors for youth and connecting with new Canadians, and all citizens in every region. This will be a way to bring us to each other, and most importantly a way to bring new understandings of civics, government issues and processes. This international language of visual arts is one that children and youth use all the time.

[*Translation*]

Honourable senators, as we celebrate the 150th anniversary of our country, the City of Victoria in British Columbia plans on having two artists in residence and one will be an indigenous artist, in order to recognize that this year's celebrations also have a theme of reconciliation.

[*English*]

As Victoria councillors commented, this artist "will speak very directly to the work we'll be undertaking in the next year or two, three, four or five years in response to the Truth and Reconciliation recommendations," and that "Indigenous art is . . . distinct and significant . . . with real cultural significance rooted in this place . . . it's appropriate to have this position alongside the general artist in residence."

Victoria's budget for each of these two positions was initially planned at $72,000; $40,000 for their fee and $32,000 for expenses. Our poet laureate budget in 2016 was $33,000, of which $20,000 was the fee and the balance travel and expenses. A visual artist would also require materials.

As you have heard me say, there are also truly compelling economic statistics from Canada's cultural industries. Statistics Canada published Canadian Culture Satellite Account, which details the "measures of the economic importance of culture (inclusive of the arts and heritage) and sport in Canada in terms of output, gross domestic product and employment."

I think showing leadership by increasing the awareness of the role of the arts would increase that economic impact. The CSA report, for instance, found that the GDP of cultural industries in 2010 was $47.6 billion, constituting 3.4 per cent of Canada's GDP. Cultural industries accounted for 642,486 jobs in Canada, 4 per cent of the total in our economy, being our third largest employer. Further, Canada's cultural GDP rose by 2.8 per cent in 2014, audiovisual and interactive media accounting for more than half of the overall growth.

I encourage you all to review your individual provincial cultural impacts. They are truly impressive, ranging from $121 million to P.E.I.'s GDP, to $53 million for Nunavut, $1.4 billion in Manitoba, $21.8 billion in Ontario and $10.8 billion in Quebec.

Last week, I spoke at a school on the future needs of social responsibility as they reassessed their strategic plan looking to future needs of students in this rapidly changing world. You can guess my underlying message. We in the Senate and Parliament unquestionably have a strong societal responsibility. So, too, do artists. Let us bring those responsibilities together in a concrete and meaningful way, with a visual artist laureate.

• (1640)

Colleagues, we have the honour of George Elliott Clarke as our seventh, current and inspiring Poet Laureate. We heard his work yesterday. We heard it earlier today.

Not knowing he would be quoted by our two honourable senators, I asked him to write a poem for me today on the visions of a visual artist laureate. He did, and he also gave me a statement. I'm going to read the statement first:

> Any public official permitted the mandate to promote Canadian arts and letters, music and dance, theatre and film, is a de facto inspirer of dream, which is the origin of law, the wellspring of prosperity, and the guardian of liberty. The more we value literacy in arts and culture, the more we invest in greater comfort and convenience, opportunity and enlightenment, and a society that has no throwaway persons, but only a citizenry considered priceless and invaluable, for all are capable of dream. . ..

And now our laureate's poem: *On the Proposal for a Visual Artist Laureate*.

> The blank page—the blank canvas is—
> Undeniably delicious—
> Like fog, which obscures, then reveals—
> What Hope imminently congeals—
> A fantastic architecture—
> Imagination born secure:
> What Vision—the I of the eye—
> Had dreamt, is What answering Why. . ..
> Rainbows erupt from paint or ink—
> And film sculptures light—in a blink;
> A needle, weaving, is lyric,
> And whatever is shaped is epic.
> Art's each I articulate,
> Whose vision ordains a laureate.

Senators, you can see that I feel this position is one of inspiration, drawing us all together with a dream. Through the visual arts, we can engage and encourage debate on and off the Hill, linking the work of parliamentarians with ordinary Canadians who may not live on Parliament Hill. It will bring Canadians a new understanding of civics.

What better time to give to Canadians a parliamentary artist laureate than Canada's 150th anniversary? As we look back on the last 150 years of our very special nation, we are reminded of the many great artists past —

The Hon. the Speaker: Excuse me, senator, your time has expired. Are you asking for five more minutes to finish?

Senator Bovey: Two minutes?

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

Hon. Senators: Agreed.

Senator Bovey: As we look back on the last 150 years of our very special nation, we are reminded of the many great artists past who portrayed Canada in multiple visual media. I would be happy to show you whatever examples of our national treasures you would like. Canada is truly a tapestry of many peoples and cultures who call this place home, and our story is being and has been told through many visual artists who see this land through myriad views and lenses. Each contributes to the vision of Canada. So, too, will our visual artist laureate.

I believe that a parliamentary artist laureate should be created to shine the proper light on Canada's Parliament and our artists and their works, in the spirit of not only explaining the Canadian experience abroad but to ourselves as well. As Clarke said to me in his note, "All are capable of dreams." Or as he, this inspirer of dream, wrote of that delicious blank canvas, "Art's each I articulate whose vision ordains a laureate."

(On motion of Senator Martin, debate adjourned.)

PROHIBITING CLUSTER MUNITIONS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Salma Ataullahjan moved second reading of Bill S-235, An Act to amend the Prohibiting Cluster Munitions Act (investments).

She said:

> "It was the middle of Ramadan, just after our evening meal. My sister found it in the tangerine orchard and gave it to me," said 12-year-old Zahara.
>
> It was shaped like a colouring box, with a kind of pyramid on top. As I took it from her, it fell to the ground. When I picked it up, it exploded. I remember that it was very loud when it went off. It burst my ears. I fell to the ground, and my friends carried me home. The doctor said my hand would have to be cut off. My mother start crying. The stump where my hand used to be still hurts a lot, and it always feels cold. I can't play. I don't want to go out. I used to have fun with my friends, but I can't play with them like that anymore.

Honourable senators, Bill S-235, the prohibiting investments in cluster munitions act, would create a provision in the Prohibiting Cluster Munitions Act banning investments in an entity that has breached a prohibition relating to cluster munitions, explosive submunitions and explosive bomblets. Cluster munitions are weapons designed to carry and disperse multiple explosive submunitions and/or bomblets. These weapons can be dropped from an aircraft or fired from the ground or sea by rockets or artillery. They are designed to open up in mid-air and release from tens to thousands of submunitions that have the ability to indiscriminately saturate an area on the ground up to the size of several football fields. Anyone within striking areas of cluster munitions, be they military or civilian, has a substantial chance of being killed or seriously injured. Furthermore, any ordinance that fails to activate upon landing will effectively turn into a landmine on the ground, posing an immediate threat to the population and also for decades after the conflict is over or until the bombs have been cleared and destroyed.

In June 2016, PAX, a Dutch peace group who form a part of the international coalition against indiscriminate weapons, reported that four Canadian financial institutions had invested $565 million in companies that manufacture cluster munitions. When I read this report, I was shocked and horrified to learn that Canadian financial institutions were investing in the production of these insidious weapons of war. I immediately felt compelled to look into this matter further and do whatever I could to bring an end to this practice in our country.

I also have a personal interest in this issue. At the height of the Russian invasion of Afghanistan, my uncle, an orthopaedic surgeon in Peshawar, Pakistan, treated countless casualties of cluster munitions, who, in desperation had been brought over the border from Afghanistan by any means possible, including on foot, by donkey, pickup truck, car or bus, seeking medical help. So many years later, cluster munitions are still claiming the lives of Afghan people.

Just this month, the United Nations mission in Afghanistan reported that mines and cluster munitions left over from decades of conflict were largely responsible for the 25 per cent increase in child deaths in Afghanistan in 2016.

The United Nations family of agencies, through its work on the ground, has reported the use of many different types of cluster munitions over the years. In this regard, the UN Office for Disarmament Affairs has made it clear that all types of cluster munitions cause unacceptable harm to civilians. According to the International Committee of the Red Cross, because cluster munitions are generally free-falling, issues such as incorrect use, wind and other external factors can also cause them to strike well outside the targeted area.

Moreover, the high failure rate of cluster munitions can prevent or significantly hinder the safe return of refugees and internally displaced persons, as well as hamper humanitarian, peace-building and development efforts, including the clearance of mines and cluster munitions.

Travis was a U.S. Marine Corporal deployed to Iraq. After most of the hard fighting, he decided to stay and volunteer with the removal of unexploded cluster bombs and land mines. On July 2, 2003, he was killed by an unexploded cluster munition.

His mother, Lynn, now speaks out against the use of cluster munitions, saying:

> If even the best trained military personnel can accidentally fall victim to this weapon, how on earth do

we think we can expect civilians to return to a land littered with them and not fall prey to them.

• (1650)

In 2008, the Convention on Cluster Munitions was adopted by over 100 countries, including Canada. As of August 2016, a total of 119 countries had signed or acceded to the Convention on Cluster Munitions.

The convention entered into force on August 1, 2010 and is the sole international instrument dedicated to ending the suffering caused by cluster munitions. In 2015, Canada ratified the convention and enacted the Prohibiting Cluster Munitions Act.

However, notwithstanding that many countries have banned these weapons, citing their inability to distinguish between combatants and civilians, as well as the large amount of unexploded bomblets that are left behind, cluster munitions are still being manufactured and used in ongoing conflicts around the globe, causing a disproportionate number of civilians to be severely injured or killed each year as a result.

"The suffering is still continuing and civilians continue to be the predominant victims of cluster bombs," said Jeff Abramson, Programme Manager at Landmine and Cluster Munition Monitor

Moreover, casualties from cluster munition attacks are increasingly being recorded in and near marketplaces, schools and hospitals.

In 2015, Human Rights Watch documented cluster munition attacks on two schools in Douma that killed at least eight children and two teachers. In Yemen, at least two people were wounded in a cluster munition attack near the al-Amar village on market day. In Ukraine, a woman and child were killed on a playground near a school by cluster munition rocket attacks.

Children are particularly at risk of being the victims of cluster munitions because they often mistake unexploded ordnances laying on the ground for toys. In fact, the Landmine and Cluster Munition Monitor estimates that 40 per cent of the victims of cluster bombs worldwide are children.

Drawn by their bright colours and toy-like appearance, children often activate unexploded munitions by picking them up, as did 4-year-old Emam, who died from injuries he sustained after picking up a cluster bomblet last year in east Aleppo.

In October 2016, Save the Children reported that cluster munitions and other explosive weaponry killed at least 136 children and wounded 397 from the time an attempt to retake Aleppo had begun. Doctors in east Aleppo confirmed that a large number of children had been coming in with injuries as a result of cluster bombs.

In the span of nine years, between 1964 and 1973, more than 2 million tonnes of bombs, including cluster munitions, were dropped on Laos. Since then, an estimated 20,000 people have been killed or injured by leftover unexploded munitions. To this day, one third of the arable land in Laos is contaminated with these ordnances.

Consequently, poor economic development and poverty is rampant in Laos because farmers are unable to make use of those lands to grow crops. It is estimated that, at a clearance rate of 8,000 hectares per year, it would take 1,000 years of sustained work to make Laos unexploded-ordnance-free.

Senators, investing ethically has increasingly become an issue that is important to Canadians. Mines Action Canada has reported that many Canadians have been reaching out to their organization asking what they could do to ensure that their financial institution was not investing in cluster munitions, because they did not want their money being used to assist in the production of a banned weapon.

Additionally, the Canadian investment community itself has been seeking clarity with regard to the issue of investment in cluster munitions, given that there is no definitive prohibition in the current legislation.

Many people to whom I have spoken about this bill have been surprised to learn that our legislation does not include an explicit prohibition against investing in companies that manufacture cluster munitions. And they have all expressed grave concern that the financial institutions in which they have entrusted their investments would ever invest their money in these weapons.

Senators, investing in companies that produce cluster munitions is an active choice to support weapons that cause devastating harm, mostly to civilians.

They are indiscriminate and inhumane weapons that no Canadian financial institution should be investing in. As a banned weapon, they are a poor investment, and as more countries have ratified the convention, we have seen that the market for these weapons is starting to dry up.

The preamble of the Convention on Cluster Munitions recognizes the general need to enhance the protection of civilians in armed conflict and to facilitate post-conflict reconstruction.

If the financial resources required to manufacture these weapons were no longer available to the companies that make them, this would be one more positive step toward the eradication of cluster munitions altogether, which, in turn, would significantly enhance the protection of civilians during armed conflict, as well as post-conflict reconstruction efforts in concordance with the spirit of the convention.

The main provision, clause 3 of the Prohibiting Investments in Cluster Munitions Act explicitly prohibits a person from acquiring or having, directly or indirectly and individually or as a shareholder, partner or otherwise, any pecuniary interest in, or loan funds or guarantee a loan of funds to, a person knowing that the person has committed or has aided or abetted in the commission of any act referred to in paragraphs 6(a) to (d) of the Prohibiting Cluster Munitions Act.

In recent years, civil society has engaged with financial institutions and government representatives worldwide to talk about ways to disinvest from companies that produce cluster munitions, says PAX. While this engagement has resulted in some financial institutions disinvesting from cluster munitions producers, many have not.

Consequently, the suffering of innocent civilians persists and civilians continue to account for the vast majority of casualties, making up 97 per cent of all casualties whose status was recorded in 2015.

And while the recorded numbers are very high, it is important to note that a substantial number of cluster munition casualties go unrecorded due to a lack of sufficient documentation. Handicap International puts the estimate at more than 100,000 victims of cluster bombs worldwide. Further, as a result of ongoing conflicts in 2016, the number of casualties is certain to have risen.

We know that cluster munitions have had grave humanitarian consequences not only at the time of their use but for decades afterwards when they failed to function as intended.

As mentioned earlier, unexploded ordnances from cluster bombs are often shiny and attractive to curious children.

Some cluster bombs are packed with ball bearings which, when they explode, shoot hot metal bullets into the surrounding area. Just 20 or 30 of these ball bearings are enough to tear off children's limbs, fracture their softer bones, blind them or end up embedded in their muscle tissue.

Honourable senators, Canada has ratified the Convention on Cluster Munitions with the Prohibiting Cluster Munitions Act. Let us now strengthen our legislation to include a definitive prohibition on investing in cluster munitions.

We must continue to lead and support any and all efforts aimed at the eradication of these horrific weapons.

By amending our legislation to include a ban on investing in companies that produce cluster munitions, explosive submunitions and explosive bomblets, we'll be doing just that.

Many countries, including common law countries, have already enacted legislation prohibiting investments in companies that produce cluster munitions.

Furthermore, we're seeing a growing trend where more and more states are taking actions to prevent investments in cluster munitions as a means of bringing an end to the production of these weapons with the goal of a world free of cluster munitions.

One of the most effective ways to end the production of cluster munitions altogether is to cut financial ties to companies who produce them. This can only be achieved through explicit and definitive legislation.

Canada has been a global leader against landmines. Let us also be a leader against the production and use of cluster munitions.

We must do, on an urgent basis, all that we can to stop the indiscriminate killing of innocent children and civilians by these sinister weapons.

Drying up the financial resources to build these weapons through the adoption of this bill is an easy yet highly effective step toward achieving this goal.

On the day of the accident, 20-year-old Fikret was standing in the field where one of his sheep activated a cluster munition that had been in the trenches since 1999. Thirteen of the family's sheep were killed that day, but it was the presence of those sheep that saved his life. The explosion caused serious wounds to his head, left eye, neck, torso and left arm. Although emergency assistance arrived rapidly, it took rescue workers over 20 minutes to secure a safe route to get to him, fearing the presence of more unexploded munitions.

• (1700)

As a result of his injuries, he spent two and a half months in the hospital recovering. Then, when all other options had been exhausted, what was left of his left eye had to be removed. Along with the loss of his eye, the injury to his left arm has been devastating to his life as he is left-handed. He has little use of his left arm now and therefore had to drop out of the technical school where he had been training to be a welder.

He says the accident has shattered his dreams and that it has been very hard for him to adapt to his new situation both physically and psychologically. "I sleep in the room next to Fikret," says his brother, "and I wake up in the night when he screams in his nightmares."

Honourable senators, my hope is one day the world will be free from stories like Fikret's. To invest in companies that produce cluster munitions is to invest in the devastation and misery they cause. I am hopeful that you will support the timely passage of this bill.

(On motion of Senator Day, for Senator Hubley, debate adjourned.)

SENATE MODERNIZATION

THIRD REPORT OF SPECIAL COMMITTEE—MOTIONS IN AMENDMENT AND SUBAMENDMENT WITHDRAWN—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Day, for the adoption of the third report (interim)

of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Committees)*, presented in the Senate on October 4, 2016.

And on the motion in amendment of the Honourable Senator Tannas, seconded by the Honourable Senator Unger:

That the Third Report of the Special Senate Committee on Senate Modernization be not now adopted, but that it be amended by replacing the third paragraph, starting with the words "That the Senate direct", with the following:

"That:

1. the Clerk of the Senate be instructed to prepare and recommend to the Standing Committee on Rules, Procedures and the Rights of Parliament draft amendments to the *Rules of the Senate* to change the process for determining the composition of the Committee of Selection and each standing committee, using the process set out below as the basis for such amendments and taking into consideration the objectives identified by the committee and the principles underlying those objectives; and

2. the Standing Committee on Rules, Procedures and the Rights of Parliament examine and consider those recommendations and report to the Senate with its recommendations."

And on the subamendment of the Honourable Senator Eggleton, P.C., seconded by the Honourable Senator Joyal, P.C.:

That the motion in amendment be not now adopted, but that it be amended by replacing the words "report to the Senate" by the words "report to the Senate by May 1, 2017."

Hon. Scott Tannas: Honourable colleagues, it's my understanding that Senator Day intends to present some new amendment to this particular report. I've seen those amendments. I'm in support of them. Senator Eggleton is in support. So on behalf of both Senator Eggleton and myself, we ask your leave to withdraw Senator Eggleton's subamendment and my amendments.

Hon. George Baker (The Hon. the Acting Speaker): Honourable senators, is leave granted?

Hon. Senators: Agreed.

(Motions in amendment and subamendment withdrawn.)

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, as Senator Tannas mentioned, this is Third Report of the Special Senate Committee on Senate Modernization. This particular report deals with populating committees. Honourable senators will know that that's a critical part of the adjustment and modernization of our work in the Senate.

I want to remind honourable senators that the arrangement we were able to reach earlier to incorporate all new senators fundamentally into the work of committees was an interim agreement which we sometimes refer to as a sessional order. That will expire at the end of the session or in October of this year, so it's critical that we get on with this at this time.

It's for that reason that I would like to provide some background on the particular amendment that I intend to put forward. I thank all senators, but specifically Senators Ringuette, Tannas and Eggleton who were specifically involved in this particular matter for their understanding as we proceed to find a more permanent solution for our committees. The amendment that I intend to present is designed to ensure that the work that needs to be done by the Rules Committee can be done more freely and openly and in the manner they would normally work in than perhaps the Modernization Committee report initially suggested.

The Senate has long taken justifiable pride in the work of its committees. I'd like to put some of that work on the record because I think it's helpful to put it in perspective. The long history includes: the Senate committee reports of the 1970s on poverty, chaired by Senator David Croll; mass media, Senator Keith Davey; the reports in the 1980s on the security intelligence service — which was a committee chaired by Senator Michael Pitfield; the report on soil erosion by Senator Herb Sparrow.

As an aside, when I was on a cross-Canada tour with the Agriculture Committee, we went to a farm in northern New Brunswick. The farmer said, "Yes, I know the work that you senators do." He went into the barn and pulled out the report by Senator Sparrow on soil erosion. He said, "That is the Bible for us in this part of the world." That was the first report that I had heard about, actually, from the Senate. It was a good lesson for me.

Other reports include the one on youth, by Senator Jacques Hebert —his work with Katimavik influenced that report — social cohesion, Senator Lowell Murray; ground-breaking Senate committee reports in the 2000s on health care and mental health, Senator Michael Kirby; the legalization of cannabis, Senator Pierre Claude Nolin; as well as a number of comprehensive and very insightful reports from the Defence Committee chaired by Senator Colin Kenny.

We have examined many ways to make our committees more effective, but as we think about ways to improve we should not forget the tremendous amount of work that has been accomplished over the decades.

In addition to committee work leading to policy reports, honourable senators, there is of course the work our committees have done in improving legislation received from the other place, with quite literally hundreds and perhaps thousands of amendments over the years.

The Third Report of the Modernization Committee deals directly with how our committees are constituted and organized. It is a critical report as it seeks to ensure that our committees are best positioned to continue to build on that good work that I've just referred to.

I commend and thank Senator Eggleton and all of the members of the Modernization Committee. I mention Senator Eggleton because he introduced this third report. He worked so hard to craft the recommendations. They're very helpful in focusing us on the work that we need to do.

These proposals were clearly designed to ensure that all Senate committees fully respect the principles of equality and proportionality when dealing with membership and leadership positions.

In December, we all agreed to a sessional order that ensures all senators have an equal opportunity to participate fully in all committees. While other legislative bodies populate their committees based on strict seniority, as in the United States, we elected not to do that in this particular instance. On December 7, all of us agreed that we were to be treated equally regardless of the dates of our arrival in this place.

• (1710)

The motion that created the house order was introduced by the Leader of the Opposition, Senator Carignan. It was seconded by Senator Harder, the Leader of the Government, by Senator McCoy, the Independent Senators Group facilitator, and by me, as leader of the independent Senate Liberals.

The way the motion was moved, seconded and then adopted unanimously is, in my view, a true indication of how all of us respect the fundamental right of one another to participate fully in all aspects of our work as senators, no matter where or with whom we sit in this chamber at any time.

Honourable senators, that mutual respect, recognition and, frankly, that sense of goodwill to one another are critical for our individual and collective success in this legislative chamber of sober second thought.

I know this sense of goodwill and mutual respect for one another will guide the work of the members of the Rules Committee when this third report of the Senate Modernization Committee is referred to them for action.

But before we refer the report to the Rules Committee, I would like to suggest some changes. There have been some discussions to assist the Rules Committee with respect to the direction they will be receiving from this chamber as a result of the Modernization Committee report.

Members of the Rules Committee have, and should have, latitude to bring their full expertise and experience to the issue of ensuring equality and proportionality on committees. We want to make sure the Rules Committee also takes into specific account two points that have been raised by Senator Ringuette in discussions that we've had. They are the issue of proportionality on subcommittees, and the equal treatment of senators who are not members of any caucus or recognized groups.

I've mentioned it previously, but I should also note that Senator Eggleton has had an opportunity to consider the approach, as well as Senator Tannas, and we have wholehearted support from those honourable senators.

MOTION IN AMENDMENT

Hon. Joseph A. Day (Leader of the Senate Liberals): Therefore, honourable senators, I move:

That the third report of the Special Senate Committee on Senate Modernization be not now adopted, but that it be amended:

1. by replacing the words "Senate direct the Standing Senate Committee on Rules Procedures and the Rights of Parliament to amend" by the words "Standing Committee on Rules, Procedures and the Rights of Parliament develop and propose to the Senate, by May 9, 2017, amendments to";

2. by replacing the words "as the basis for such changes" by the words "as an initial basis for its work on the amendments, but also taking into account any other relevant factors identified by the Rules Committee";

3. by adding the following new sentence at the end of the first point under the heading "STEP 4":

"For the purposes of overall proportionality on standing committees, senators not in a caucus or recognized group shall be considered collectively as a group."; and

4. by adding the following immediately before the word "ONGOING":

"STEP 9:

The principle of proportionality shall also apply to the composition of subcommittees.".

The Hon. the Acting Speaker: On debate, Senator Martin.

Hon. Yonah Martin (Deputy Leader of the Opposition): Thank you, Senator Day, for your explanation. I will take the adjournment at this time.

(On motion of Senator Martin, debate adjourned.)

STUDY ON BEST PRACTICES AND ON-GOING CHALLENGES RELATING TO HOUSING IN FIRST NATION AND INUIT COMMUNITIES IN NUNAVUT, NUNAVIK, NUNATSIAVUT AND THE NORTHWEST TERRITORIES

FIFTH REPORT OF ABORIGINAL PEOPLES COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Dyck, seconded by the Honourable Senator Watt:

That the fifth report of the Standing Senate Committee on Aboriginal Peoples entitled *We can do Better: Housing in Inuit Nunangat*, deposited with the Clerk of the Senate on Wednesday, March 1, 2017 be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Families, Children and Social Development (Minister responsible for the Canada Mortgage and Housing Corporation) being identified as minister responsible for responding to the report, in consultation with the Ministers of Indigenous and Northern Affairs, Fisheries, Oceans and the Canadian Coast Guard, Innovation, Science and Economic Development, and the President of the Treasury Board.

Hon. Dennis Glen Patterson: Honourable senators, I will just speak briefly on this report, having learned from you the virtues of brevity.

I'm grateful to the Senate and my colleagues on the Aboriginal Peoples Committee, on the heels of our study on First Nations on-reserve housing, to have allowed the committee to turn our attention to the situation of housing in Inuit Nunangat and the northern regions of Canada.

I think it's great that we were able to do that study because after all, although thinly populated, the regions studied in this report represent well over half of Canada. I want to thank my colleagues for having travelled to communities in these remote regions, and not just having heard witnesses from Ottawa.

Let me give you a quick example of some of the challenges that we had to face. In one community, Senator Watt's hometown, the water truck had not been able to service the hotel, probably due to weather, so we were deprived of water one morning when some honourable members had hoped to have a shower and other ablutions.

We had actually flown from my home community of Iqaluit the day before a fierce blizzard descended upon the community. We were not flying in large airplanes. We were rushed to the airport to get on a small twin-engine plane to fly from Iqaluit to Kuujjuaq just as the storm was visibly descending. We snuck out of the community. We were the last flight out of Iqaluit before a two-day blizzard descended upon us. I can tell you this is not always glamorous travel. Unfortunately, I think that same storm system prevented us from visiting Labrador. We got to large and small communities in Nunavut and Nunavik.

• (1720)

I want to add a few quick points to what Senator Dyck said the other day, and I don't want to repeat everything that she said, although I do endorse them. One thing I want to say is that we have these problems of rapidly growing population, overcrowded homes and a shortage of homes, but we did learn some very interesting history of how we came to this pass in our travels from elders, and I want to credit particularly the Speaker of the Nunavut legislature and the MLA for Igloolik who told us the origins of the housing problems.

The Inuit lived independently on the land and they lived a healthy lifestyle. It was a hard life, but they were self-reliant and independent. Government in its wisdom decided with respect to people living on the land — and there were some episodes of starvation when the caribou didn't come that were very compelling to the government in Ottawa and the press — to bring the Inuit in to communities.

There were incentives. One was the family allowance, which was made available to people who would live in communities. The other was housing. People were promised — and there's a lot of evidence about this — that they'd be provided with housing at little or no cost, little or no rent. Houses were built. Initially, they were really a little better than plywood habitations, the famous 512 square feet. More recently, houses were built that were more like suburban bungalows. There are still serious problems with design and even the siting of houses. Imagine putting a house facing into the north wind in the Arctic. Need I explain how ill-advised this is?

So the problem now is that the population of Inuit grew at Third World population growth rates, certainly the highest in Canada and probably amongst the highest in the world. So now we have a situation where houses are very crowded. We haven't been able to keep up with the population growth rate, and we haven't been able to maintain the houses.

One of the things that I want to emphasize from our report is that we discovered that the Canada Mortgage and Housing Corporation, which provided the capital to build houses and still does — what we call "social housing" — has also determined that the operating and maintenance fund, which had accompanied those houses, should be slowly reduced. This will come to an end within the next decade or so. What it means is there is less and less funding available to take care of the houses that have been built, to rehabilitate them and repair them. So the burdens of maintaining these houses have been shifted subtly to territorial and provincial governments. We were very alarmed to see this steadily declining. Canada took responsibility for building houses but now is slowly and incrementally dumping responsibility for the maintenance and care of those houses on the territories.

Unfortunately, our social housing tenants cannot afford to pay for the high cost of maintaining these homes. The average income in my region of Nunavut is about $30,000, and that's about what

it costs to maintain a social housing unit when one considers the cost of fuel and electricity.

So we've recommended that there be long-term, predictable funding to take into account the declining operating and maintenance funding. We also recommended stable, predictable funding because we found that funding comes in stops and starts. It's boom and bust, and it doesn't allow governments and housing authorities to plan properly and do the long-range planning that's required to make the best use of the precious taxpayer dollars that are available.

We didn't focus on the billions of dollars, frankly, that are required to build more housing, but we tried to shine a light on the problem and the needs of the population with the overcrowding, the mould and the design problems that we saw and see, to find more bang for the buck for the taxpayers of Canada. The emphasis of our report was doing better with whatever funds are made available with the generosity of the Government of Canada.

I want to highlight a few of the small ways in concluding these remarks that I think we could do better. Indigenous and Northern Affairs Canada has a climate change adaptation program that we were very impressed with. It looked at the impact of climate change where permafrost is melting. With the help of universities like Laval and Memorial University, they came up with programs that would allow communities to support adaptation to climate change, for example, by hazard mapping, finding lots that are going to be stable and not subject to erosion of permafrost. So there was a concern that that program has been stopped and a recommendation that it be reinstated.

We also heard from Habitat for Humanity. This great program has done good work in the North but in a small way. Its wonderful volunteers come from all over the world, actually, to build houses in the North under the indigenous habitation for humanities program of CMHC. We strongly supported that, felt it was a good investment and recommend that CMHC continue to fund that program.

We also observed the internship initiative for First Nations and Inuit youth of CMHC but found that a very small proportion of Inuit in northern Canada had benefitted from the program, about 2 per cent during the life of the program. So we commended CMHC for this initiative. We'd love to see more Inuit get involved in apprenticeship and learning how to build homes, which are going to provide long-term job opportunities. We wanted the Inuit to get their fair share of attention from this worthwhile program.

We also learned a lot about the inability of southern designs to work in the North and recommend that the National Research Council work on developing building codes that are tailor made to the unique circumstances of the North.

Finally, we were pleased to see that CMHC, the National Research Council and Polar Knowledge Canada — which has a research station now in Cambridge Bay, a magnificent facility — are all working on strategies for research into northern housing, but they are not working together. There's no evidence that they're coordinating this work. So this should be done in a coordinated manner to maximize the initiative and the funds that are available.

Finally, we do believe that home ownership should be supported wherever possible so that the black hole of O&M funding for maintaining social housing will eventually be required less. But this is going to require innovation. It's going to require exploring the possibility of the cooperative housing program, which has worked very well in Southern Canada, co-housing programs, home buy-back programs, and we also saw some evidence that modular housing may well be able to bring down the cost of housing by up to 20 per cent in the North.

• (1730)

We made 13 hopefully well-thought-out and concrete recommendations. We're very hopeful that they will be taken into account by the Government of Canada. Also, the government is developing a national housing strategy and we urged that there be a Northern component of this national housing strategy. Hopefully, our report will help to put flesh on that Northern housing strategy.

Thanks for the opportunity to speak in support of this motion. If there is no further debate, I would like to call the question on the motion to have the fifth report of the standing committee, entitled *We can do Better: Housing in Inuit Nunangat* adopted and that the government be encouraged to respond. Thank you.

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

Hon. Senators: Question.

The Hon. the Acting Speaker: It was moved by the Honourable Senator Dyck — shall I dispense?

Hon. Senators: Dispense.

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

(Motion agreed to and report adopted.)

CANADIAN TEMPORARY FOREIGN WORKERS PROGRAM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Meredith, calling the attention of the Senate to the Canadian Temporary Foreign Workers Program, including

the living and working conditions of workers and their access to health care.

Hon. Don Meredith: Honourable senators, at the end of my comments, I'd like to adjourn this inquiry in the name of Senator Jaffer.

Honourable senators, I rise today to bring your attention to the Canadian Temporary Foreign Workers Program. Of specific grim concern are the living and working conditions of workers, coupled with their limited assistance to health care.

This program, which began in 1973, has grown to become a pillar of our society. It is important not only to all Canadians but also to the many individuals and their families who come here to be part of it and to help sustain a way of life for all of us. It cannot be denied that Canadian companies benefit greatly from the hard-working men and women who arrive annually to temporarily fill gaping vacancies in difficult jobs that Canadian workers are unwilling to perform.

A 2015 report from the Office of the Parliamentary Budget Officer demonstrated the program's expansive growth and noted that between 2002 and 2012 the number of temporary foreign workers more than tripled over the previous decade.

Despite the unattainable benefit and clear contribution of temporary foreign workers to Canada, they continue to face horrendous circumstances during their stay in our great nation.

Honourable senators, it is high time for the Government of Canada to do something about the program's atrocities. We need change. While most employers depend on this program and adhere to the rules, as with any program, some have abused the system.

We have seen employers use the program to fill full-time positions, such as the case of McDonald's and I believe also Tim Hortons, when they were accused of hiring temporary foreign workers to fill full-time positions in their restaurants.

The fact is that for as long as there has been a temporary foreign worker program there have been employers and workers expressing serious concerns over aspects of the program which leave participants vulnerable to injury and abuse. Successive governments have tried to fix this broken program, but we still continue to see cases of incomprehensible cruelty, exploitation and, dare I say, savagery at the hands of many employers.

Many of our temporary foreign workers have to endure substandard living conditions. Living in tight, uncomfortable spaces with limited sanitation and without proper accommodations, these men and women have the indignity of living alongside dozens of other people thrust upon them. They are often isolated, honourable senators, sometimes by their remote quarters on farms and rural communities. They are further isolated by language and cultural barriers that preclude them from engaging with communities where they live. Those who dare venture outside their confinement are often discriminated against by communities that have not been prepared to welcome their guests.

For too many of these workers, there is no sense of belonging when they are in Canada. There is no sense of home that will alleviate any notion of loneliness naturally caused through extended periods away from one's family and community.

While the Temporary Foreign Workers Program makes provisions for adequate accommodations and a healthy standard of living, many employers simply ignore these rules.

In both the Live-in Caregiver Program and the Seasonal Agricultural Workers Program, employers are required to provide housing for their employees. Nevertheless, there are cases where employers include housing in their workers' contract and charge rent. Not surprisingly, there have been many reports of inappropriate and overpriced accommodations.

I am reminded of the story of Natalie, a victim of abuse under the program, who now advocates on behalf of the Canadian Council for Refugees. Borrowing money she did not have from a lender, Natalie paid a Thai recruitment company approximately $12,000 to get a Canadian work permit. The recruiter lied to her about how much money she would make in Canada. Unable to pay the lender, she was locked into debt.

Once in Canada, Natalie and 11 other Thais were taken to a small house with two bedrooms, one kitchen and a single bathroom. With no beds made available to them, the workers were forced to sleep on the floor. They had no blankets, washer, dryer or telephone.

The house was in a rural area and not within walking distance of a telephone or store. Each individual was charged $300 per month for rent, though their contract stated, honourable senators, $30 per month. This was not a typo, accounting error or miscalculation. This was a blatant lie used as a tool of exploitation.

Workers were further told that they would not leave the house or receive any visitors — virtually prisoners right there in the True North, where not all are allowed to be strong and not all are allowed to be free.

As we heard from the discussion between Senator Black and the Minister of Employment, Work Force Development and Labour, MaryAnn Mihychuk, on November 15, 2016, some Canadians do not want to work in these fields, yet the workers who we invite to help are voiceless and afraid of being sent back to their countries.

The minister said:

> Temporary foreign workers must be safe. They must be secure. They must have the same human rights and work protection as any other worker in Canada. There is work to be done on that.

I agree. Colleagues, there is tremendous work to be done.

The rule of law is being broken in the interest of money and at the expense of vulnerable individuals who are supporting their families. Is this the Canada we want?

Natalie's story is not a tall tale of a single incident, as isolated as she was. Rather, it is the present reality for too many men and women seeking a better way of life.

According to the Canadian Council for Refugees' report on migrant workers, isolation was a challenge cited by 51 per cent of respondents. Due to isolation, precarious status and lack of support, workers become afraid to complain of abuse or to miss work if they become sick or injured. The circumstances create a crippling power imbalance between employer and worker, fertilizing ripe opportunities for abuse. This is not what we want in this country. This is not what we stand for as Canadian lawmakers.

Honourable senators, we have a duty to take a moral legal stand, yet this is happening under our noses. I believe in Canada we must work fervently to advocate for and promote our values, demanding that human rights be upheld across every sector and in every province.

The fruits we consume do not justify the inhumane conditions and stresses these men and women are forced to endure. I appeal to your appetites. Colleagues, I appeal to that which is right. As a senator indicated earlier, this is the right thing to do. This is the right thing for Canada.

• (1740)

Honourable senators, individuals under the program are not only worried due to inadequate living conditions, they are also deeply concerned about their deplorable working conditions.

A report from the Canadian Council for Refugees noted that due to a lack of permanent status and isolation, temporary migrant workers are especially vulnerable to exploitation and abuse while working. The same report points out that over 22 per cent of workers list unsafe working conditions as one of their major concerns. It is sometimes a matter of course that workers are expected, forced to work despite not being properly trained on machinery or adequately equipped with protective material to mitigate adverse reactions from pesticide application, along with other hazards.

From coast to coast, from our fisheries to farms, abuse is prevalent and ongoing. It is incumbent upon all of us to allow our individual and collective voices to be loudly heard on these gross injustices.

For the vast majority of Canadian workers, changing an employer is fairly simple if we are unsatisfied with any aspect of our jobs. This is not the case with temporary foreign workers, honourable senators. Work permits are typically tied to a single employer, which increases the workers' vulnerability.

Workers are denied the luxury of simply looking for a better employer if they are treated abusively. As a result, this can lead to workers often being overworked and underpaid.

Let us untangle the red tape that ensnares temporary foreign workers, especially seasonal agricultural workers, so they can change employers without leaving the country.

Regarding the extension of a work permit, and Immigration, Refugees and Citizenship Canada states on its website:

> Your employer may want to rehire you. Even so, you must go back to your home country before you can apply for another work permit.

Article 23 of the United Nations Universal Declaration of Human Rights clearly states:

> (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
>
> (2) Everyone, without any discrimination, has the right to equal pay for equal work.
>
> (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

Honourable senators, in Canada does this not apply to our temporary foreign workers? The wages some of these workers receive not only belligerently break Article 23, but they are dismally below Ontario's living wage of $15.85 per hour.

Suffice it to say, the list of problems is extensive. As harsh as it is to say, we could call this modern-day slavery cloaked in capitalism. In fact, several news outlets, including CBC, have shouted the headline: "Migrant worker program called 'worse than slavery.'" These are not my words, honourable senators.

These situations create an incredibly vicious cycle. For temporary foreign workers, staying here is very dependent on their performance and on their health, which ironically ends up being a stressor. They can't get sick; they can't take time off; they are worked like chattel. These workers to whom we owe much of what we place on our tables are trapped in a proverbial Catch-22.

They live under medieval conditions where employers control movement, and it is extremely difficult to change employers or return to Canada if there is a problem with an employer.

Senator Jaffer spoke on this matter in 2010:

> These men worked hard to provide for their families back home. They worked up to 12 hours a day, seven days a week for minimum wage. These adult men fought back tears as they told their stories of being unable to buy their children Christmas presents or even to feed their families in the absence of their expected wages.

Tragically, some of them never get to see their families again.

I rose to make a statement against this injustice faced by a temporary foreign worker named Sheldon McKenzie and his

family at the hands of his employer and his case officer. His story was the catalyst that moved me to bring forth this inquiry.

Mr. McKenzie came to Canada, working tirelessly for 12 years in our fields to support his wife and daughters. In January 2015, he was struck on the head while on the job and received a severe brain injury. We would imagine that a worker invited to Canada, a nation boasting exemplary health care, would be taken care of after receiving such a devastating blow, but as a temporary foreign worker unable to work, Sheldon McKenzie was stripped of his status and benefits. Subsequently his family, while dealing with the challenge of his health, was forced to fight so he could remain in Canada for treatment.

His case is the norm rather than the exception.

Immigration, Refugees and Citizenship Canada and most provinces, like Ontario, require workers to be employed full time in the province for a minimum of six months and maintain their primary place of residence to keep their benefits.

So clearly, when their work permits expire or they are unable to work due to injury, health and employment insurance benefits are no longer valid. Even when injured, migrant workers are only entitled to health care for their workplace injuries deemed urgent enough to receive immediate care. The result is inadequate access to health care for migrant workers and inadequate protection for occupational workplace safety issues such as long-term exposure to environmental threats.

The Seasonal Agricultural Workers Program seems to work to exploit the labour of healthy workers and reject those who become ill or injured while on the job in Canada, as if they're a bad tomato on the assembly line.

Unfortunately for Mr. McKenzie, his fight to survive was lost as he passed away in September 2015, leaving behind his wife and two teenage daughters. Sheldon's story is only one of hundreds if not thousands of these cases of abuse and death. The real numbers are hard to know since the government does not track the injuries of workers or the reason for their repatriation.

However, the *Canadian Medical Association Journal* examined medical repatriation data from the Foreign Agricultural Resource Management Services, a non-profit corporation managing the contracts of more than 15,000 migrant farm workers in Ontario annually. Forty-three per cent of migrant farm workers were most frequently repatriated for medical or surgical reasons and 25.5 per cent due to external injuries, including poisoning.

During 2001 to 2011, 787 repatriations occurred among 170,000 migrant farm workers arriving in Ontario, 4.6 repatriations per 1,000 workers. More than two thirds of repatriated workers were aged 30 to 49. No quantitative study was found since then.

We don't know how many of these workers died because our government again has failed to keep count in its indifference towards workers' lives. In fact, migrant advocates fear that prior to 2001 Canada did not even properly record the number of farm workers who were sent home due to illness or injury.

The *Canadian Medical Association Journal* concluded:

> This study ought to provoke wider discussion on the structures of the [Seasonal Agricultural Workers Program] and spark public outrage over the health risks faced by migrant workers, the lack of transparency with regard to this vulnerable population and the inhumane practice of medical repatriation.

The Hon. the Speaker: Excuse me, senator, but your time has expired. Are you asking for five more minutes?

Senator Meredith: Yes, please.

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

Hon. Senators: Agreed.

Senator Meredith: Thank you.

I also found it shocking how irresponsible and callous the government can be towards people who are invited to our country to work to support our economy. Chris Ramsaroop, a prominent advocate and organizer with *Justicia for Migrant Workers* noted: "This is a legacy of both slavery and indentureship."

Honourable senators, what is occurring in Canada is a travesty and an outrageous violation of the very Charter of Rights that we defend in this chamber. As Canadians we are supposed to be a beacon of moral decency, an example for others to follow. Our track record with this particular program is an embarrassment and should be a source of national shame.

Honourable senators, I remain optimistic, however, about this important program.

I have read the report and the recommendations of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities on temporary foreign workers. I believe many of the recommendations outlined in this report must be implemented.

While I commend the report, I share the concerns of many as to the speed with which this highly complex topic was studied.

• (1750)

Forty-seven witnesses were heard and over 63 briefs were received to be studied in five meetings.

Many of those who appeared before the committee had very little time to speak, and some did not have the opportunity to speak at all. Most concerning was the very marked

overrepresentation of industry spokespersons and almost no accounts from those living and working under the program. I ask: What is Canada hiding?

According to employers, everything is just fine, but we know that thousands of people are in our country working and living like second-class citizens. It is unacceptable under the circumstances. Honourable senators, we are in this chamber to defend the fundamental human rights of all peoples in our country. We cannot let workers, our guests, suffer and toil without assistance from those who are here to protect them. There must be a system of accountability at every juncture that will allow the program to both root out the rotten fruits of abuse allowed to fester, and prevent the recurrence of these injuries.

It is clear that without oversight and enforcement, the program will continue to cultivate an environment of subjugation, attitudes of contemporary slavery that are contrary to our Canadian values and way of life.

Honourable senators, I invite all of you to stand up and share your concerns regarding the Temporary Foreign Worker Program, its review and the way we should move forward to protect these men and women who make up our beds, pick our fruits and take care of our children. How are we going to respect them?

Ask these questions in your communities to engage employers in this conversation. Let's find solutions to this problem once and for all. After all, we are Canada.

(On motion of Senator Meredith, for Senator Jaffer, debate adjourned.)

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE REGULATORY AND TECHNICAL ISSUES RELATED TO THE DEPLOYMENT OF CONNECTED AND AUTOMATED VEHICLES

Hon. Michael L. MacDonald, for Senator Dawson, pursuant to notice of March 1, 2017, moved:

> That, notwithstanding the order of the Senate adopted on Wednesday, March 9, 2016, the date for the final report of the Standing Senate Committee on Transport and Communications in relation to its study on the regulatory and technical issues related to the deployment of connected and automated vehicles be extended from March 30, 2017 to December 31, 2017.

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

Hon. Senators: Agreed.

[Senator Meredith]

[*Translation*]

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE CHALLENGES ASSOCIATED WITH ACCESS TO FRENCH-LANGUAGE SCHOOLS AND FRENCH IMMERSION PROGRAMS IN BRITISH COLUMBIA

Hon. Ghislain Maltais, pursuant to notice of Senator Tardif on March 7, 2017, moved:

> That, notwithstanding the order of the Senate adopted on Thursday, December 1, 2016, the date for the final report of the Standing Senate Committee on Official Languages in relation to its study on the challenges associated with access to French-language schools and French immersion programs in British Columbia be extended from March 30, 2017 to May 31, 2017.

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

Hon. Senators: Agreed.

(Motion agreed to.)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF INTERNATIONAL MARKET ACCESS PRIORITIES FOR THE CANADIAN AGRICULTURAL AND AGRI-FOOD SECTOR

Hon. Ghislain Maltais, pursuant to notice of March 8, 2017, moved:

> That, notwithstanding the order of the Senate adopted on Thursday, January 28, 2016, the date for the final report of the Standing Senate Committee on Agriculture and Forestry in relation to its study on international market access priorities for the Canadian agricultural and agri-food sector be extended from March 31, 2017 to May 31, 2017.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COMMITTEE AUTHORIZED TO STUDY THE POTENTIAL IMPACT OF THE EFFECTS OF CLIMATE CHANGE ON THE AGRICULTURE, AGRI-FOOD AND FORESTRY SECTORS

Hon. Ghislain Maltais, pursuant to notice of March 8, 2017, moved:

That the Standing Senate Committee on Agriculture and Forestry be authorized to examine and report upon the potential impact of the effects of climate change on the agriculture, agri-food and forestry sectors and the actions undertaken to increase adaptation and emissions reduction strategies, as well as to know more about the opportunities within their sectors that come with climate change. The emphasis will be placed on:

(*a*) The measures for the adaptability and resilience of the agriculture, agri-food and forestry sectors; including the opportunities and risks associated with climate change in terms of the expansion of farmland, grazing land, and forestry production

(*b*) The repercussions of the establishment of carbon pricing mechanisms on the competitiveness of stakeholders in the agriculture, agri-food and forestry sectors;

(*c*) The role that the federal, provincial and territorial governments can play in meeting the target for the reduction of greenhouse gas emissions; and

That the committee submit its final report to the Senate no later than June 30, 2018, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

He said: Honourable senators, I move the motion standing in my name.

Hon. Joan Fraser: Does the committee intend to travel as part of this study?

Senator Maltais: Yes, of course, Senator. We will travel to agricultural regions across Canada. We will not go to the North Shore or Nunavik, but we will go wherever there is agriculture.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, March 28, 2017, at 2 p.m.)

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