



# DEBATES OF THE SENATE

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1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 119

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OFFICIAL REPORT  
(HANSARD)

Wednesday, May 10, 2017

The Honourable GEORGE J. FUREY  
Speaker

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Published by the Senate  
Available on the Internet: <http://www.parl.gc.ca>

## THE SENATE

Wednesday, May 10, 2017

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

Prayers.

[*Translation*]

### SENATORS' STATEMENTS

HON. PAUL E. MCINTYRE

#### CONGRATULATIONS ON FIFTY-SIXTH MARATHON

**Hon. Jean-Guy Dagenais:** Honourable senators, I want to take a moment today to acknowledge the achievement of one of our own, who unfortunately is not here with us today, Senator McIntyre.

On Sunday, our colleague, Paul, ran the Toronto marathon. Running a 42.2-kilometre marathon in one's life is a remarkable feat, but Paul McIntyre was running his 56th marathon.

He doesn't want me to mention his age, but those who are curious can consult the Senate website to find out. I am sure that, like me, you will feel a great deal of admiration for what he just accomplished.

Over the years, Senator McIntyre has run in hundreds of races, both in Canada and abroad: 10 kilometres, 20 kilometres, and half marathons, including the prestigious Boston marathon. He is definitely a great athlete who proves every day that athletics are a key to physical health.

Let me add that our colleague also does cross-country skiing and plays hockey.

You can well imagine that his weekends are packed, because you don't just wake up one morning and decide to run a marathon. The disciplined training that is required is part of his schedule.

I wanted to talk about this because far too often, over the past few years and even just recently, the focus in the public arena has been on the sometimes questionable actions of certain senators, while we have among us people who deserve far more attention. Paul McIntyre is one of those people.

This fitness buff takes all his titles, medals, and work schedule in stride, which leads me to believe that although I am not involved in the same sports, people can still have a lot of energy even after age 70. May God give me as much energy.

In closing, if you happen to be in Ottawa two weeks from now on Sunday, May 28, I invite you to come out and find yourself a

spot along the Ottawa marathon route. Senator McIntyre will be there running his 57th marathon.

Way to go, Paul. I'm happy you're one of us, and I'm sure everyone else here is too.

[*English*]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Miraly González González and Mailyn Garmendia, the spouse and daughter of the Cuban Ambassador to Canada.

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

**Hon. Senators:** Hear, hear!

### THE LATE LORRAINE NOVALEE BUCHAN

**Hon. Wanda Thomas Bernard:** Honourable senators, I rise today to pay tribute to an amazing young woman from North Preston, Nova Scotia, who left us too soon. Lorraine Novalee Buchan was an award-winning singer, actress and performer. She had a voice that could sing like an angel and a heart that was generous beyond measure. When she wasn't singing with CeCe Winans, performing with DRUM! or acting with Danny Glover, she was busy working in her community to help make a difference in someone's life.

When I first met Novalee and her husband, Mike, over 25 years ago, they were specialized foster parents for children with complex needs. They also provided special respite support for families that needed a "break." More recently, Novalee worked for Halifax Regional Municipality as a community worker with the Souls Strong Program, a youth advocate program that helps prevent youth from engaging in gang-related activities, as well as anti-social and criminal behaviours. She was a community leader with the East Preston Family Health Resource Centre and made profound contributions to enrich the well-being of others.

Novalee loved youth. She did her very best to work with young people in empowering and engaging ways. She would "call them in" when they were making bad decisions, and she would "call them out" when they needed her sage advice. She was the ultimate other mother who nurtured every young person that she came into contact with.

In the days following her death, a youth from the Family Health Resource Centre shared, "I have seen in the faces around me the sadness that is directly related to the privilege of knowing her, of loving her and now desperately missing her."

I consider it my privilege to have known her, and our community is a better place because of the work that she has done. Many will remember the voice of this angel or perhaps her wisdom, her kindness, her generosity, or her smile that would light up any room she entered, or maybe her wit and wonderful sense of humour. But today, as I remember Novalee, I am thankful for the many young lives that she mentored, and hope that as they all mourn and remember her, they will honour her legacy by doing the best they can do with the talents they have.

Honourable senators, please join me in extending sympathies to her husband, Michael, her son, Magael, her large extended family and communities that mourn her loss.

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Brian Stevenson, President of Lakehead University. He is the guest of the Honourable Senator Eggleton.

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

**Hon. Senators:** Hear, hear!

• (1410)

### LAKEHEAD UNIVERSITY

**Hon. Art Eggleton:** Honourable senators, I join His Honour in welcoming Dr. Brian Stevenson, President and Vice-Chancellor of Lakehead University here to the Senate.

I first met him a little over 20 years ago. He came to work in my office when I was Minister of International Trade. So if there's anything you want to know about softwood lumber or NAFTA, you can go ask him.

Let me talk about the university that he heads up. Lakehead University is a fully comprehensive institution with 10 faculties at two exceptional campuses in Thunder Bay and in Orillia. It is an institution committed to ensuring that its students succeed by teaching them how to think, not what to think. The university has been recognized for being the most generous institution in its category in Ontario for scholarships and bursaries that are given to its students.

Furthermore, almost 60 per cent of Lakehead graduates are the first in their family to receive a university degree. In northwestern Ontario, Lakehead University offers unique opportunities to learn in the field in many of its programs. Research experiences and opportunities in all of its 10 faculties is one of the reasons why RESEARCH Infosource has ranked Lakehead the number one research university in Canada in its category two years in a row.

[ Senator Bernard ]

At its campus in Orillia, Lakehead also plays a distinctive role in Simcoe County, offering post-secondary education to under-represented groups, including first-generation students and indigenous students. Indeed, Lakehead prides itself on being a leader in providing a university education for young indigenous people, with over 1,100 indigenous students currently enrolled in its programs.

Lakehead was the first university in Canada to create a vice-provost, Aboriginal initiatives position; the first to establish an indigenous content requirement for all of its undergraduate programs; and under Dr. Stevenson's leadership, the first to appoint a chair on truth and reconciliation, an advocacy role to ensure that Lakehead responds appropriately and effectively to the recommendations outlined in the 2015 report on truth and reconciliation.

Honourable senators, for over 50 years, Lakehead has provided its students with cutting-edge facilities and technology, as well as hands-on learning opportunities that will continue to set it apart for years to come.

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Ron Dimock. He is the guest of the Honourable Senator Wetston.

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

**Hon. Senators:** Hear, hear!

### GRACE MARIE MCCARVILLE

**Hon. Elizabeth Hubley (Deputy Leader of the Senate Liberals):** Honourable senators, I rise today to tell you about another young Islander who is best known for her desire to serve others.

Grace Marie Mccarville of Cornwall, P.E.I., is a fourth-year arts student who will graduate from UPEI this May with her bachelor of arts degree in psychology.

Grace has demonstrated her commitment to helping others in numerous ways. As a UPEI student, she has maintained a strong academic showing while becoming involved in campus life. She represented arts students on the UPEI Student Union in 2014 and 2015, and served on UPEI Student Union's events and activities committee. She was an orientation leader for UPEI New Student Orientation Week in 2014 and 2015, welcoming new students to UPEI and mentoring first-year students, among other duties.

A touchstone of Grace's life is her involvement in the Catholic Church, on campus, through the UPEI Chaplaincy Centre, and the St. Dunstan's University Centre for Christianity and Culture.

She was Chair of the UPEI chapter and Atlantic representative of the Canadian Catholic Students' Association.

In the broader community, she is involved in the diocese of Charlottetown's youth ministry, and international Catholic Christian outreach, having attended the 2016 World Youth Day in Poland and Austria. She has also volunteered at the Upper Room Soup Kitchen, the Island Pregnancy Centre, the Queen Elizabeth Hospital, Bluefield High School Student Council, and the Eliot River Ramblers Soccer Association.

She has been awarded for her community service with the Duke of Edinburgh bronze and silver awards and the Town of Cornwall's 2010 Youth of the Year Award for volunteerism.

Grace will work towards her honours degree in psychology this summer. In the fall of 2017, she will begin her master of social work degree at the University of British Columbia. She wants to use her gifts and abundant learning opportunities to serve others and journey alongside them. Grace hopes to enjoy a diverse career in social work, starting in child protection services, but eventually she wants to branch out into legal/policy advisement/advocacy to craft more preventative and effective legislation and awareness to best support the vulnerable people in our society.

It is individuals like Grace who make our Island and our country a better place through serving others.

Thank you for your selflessness and dedication to others, and keep up the good work.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of AnnMarie Aronoff and Chris Aronoff, the sister and brother-in-law of Senator Batters. They are accompanied by James Moseley and his daughter Makaela Moseley. They are the guests of the Honourable Senator Batters.

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

**Hon. Senators:** Hear, hear!

[Translation]

#### QUEBEC

##### STATE OF EMERGENCY

**Hon. Ghislain Maltais:** Honourable senators, for the past 12 days, Quebec has been dealing with the worst flooding it has seen in 50 years. Over 4,000 people have had to be evacuated. Roads have been destroyed, and infrastructure has been lost.

Representatives from two levels of government, including members, ministers and premiers, have been on the ground to reassure the public. It is important to recognize this work, if only to make people feel secure while they are struggling with this natural disaster, which has swallowed up their home, garage or farm machinery and has also destroyed their hopes of having a good crop, given that the spring planting will be delayed by a few weeks. This could greatly disrupt the growing season.

I would especially like to recognize the efforts of those who are helping provide relief to the flood victims, including Quebec emergency preparedness staff, the Sûreté du Québec, firefighters, members of various municipal police forces and fellow citizens. In this rare instance, all three branches of the Armed Forces are working together. We have soldiers from Valcartier — I am particularly fond of the 62nd Regiment of Shawinigan, which has been deployed to Île Bizard — from the navy and from the air force all helping out. Three quarters of the army is working on the ground.

Of course, the attention of the entire country is focused on these flood victims. On top of the material losses, just imagine the agony these people have been going through for the past 10 days. They have not slept, some have had to be evacuated, and they could lose all their belongings. What a terrible situation they are in.

We cannot do any more, honourable senators, in the face of nature. The weather forecast for the next few days is not encouraging. I therefore invite you to keep them in your thoughts, and if you do pray, perhaps you could say a prayer for the flood victims in Quebec.

[English]

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Alan Broadbent, CEO of Avana Capital Corporation and the Chairman from The Maytree Foundation of Toronto. He's the guest of the Honourable Senator Omidvar.

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

**Hon. Senators:** Hear, hear!

• (1420)

#### ALAN BROADBENT, C.M.

**Hon. Ratna Omidvar:** Honourable senators, I'm very pleased to welcome Alan Broadbent, Chairman and CEO of AVANA Capital Corporation, to the Senate.

Alan is one of Canada's leading philanthropists. He is chair of the Maytree Foundation, and I had the honour of serving as its president for close to 15 years, so I know intimately that his reach and influence in the world of philanthropy is enormous.

I could list all the organizations, the accolades, the honours, the books and the achievements, but that won't really help me make him real for you, so instead, I will take a page from his playbook and provide you with five good ideas that speak to his leadership and his values.

His first good idea is to focus on the strategic use of philanthropic resources. From Alan, I learnt that philanthropy should be strategically deployed to advance the public good. It should take risks that public money cannot take. He insists that philanthropy should not be flirtatious and move from one *cause célèbre* to another. To this day and from its beginning, therefore, the Maytree Foundation has steadfastly focused on reducing poverty in Canada because he believes that poverty should not be tolerated in our prosperous country.

His second good idea is to focus on the power of policy because it touches everybody, and not just the chosen, even if deserving, few. Just to give you one example, Alan is chair and co-founder of the Caledon Institute of Social Policy, and he is rightfully proud of the policy legacy of the institute, which led to the creation of the Canada Child Benefit.

His third good idea is to engage locally, because the local experience is the lived experience. As a great admirer of Jane Jacobs, he has created the Jane Jacobs Prize and Jane's Walk, which now takes place in 212 cities around the world. Rugby is his other love, and he shares it through the Toronto Inner-City Rugby Foundation with children in Toronto's underserved neighbourhoods.

His fourth good idea is about good ideas. He loves good ideas, and he has always said that good ideas have long legs, but even the best ideas with the longest legs need leadership capacity, and his mentoring and coaching of young leaders is a testament to this belief.

His fifth and, to me, most precious, good idea is about nation building. He believes deeply that it does not matter when you came to Canada or where you came from, we all have the same responsibility and the same opportunity to stand shoulder by shoulder to build this great country. This he does every day.

Honourable senators, Alan Broadbent is a truly exceptional Canadian.

**Hon. Senators:** Hear, hear!

#### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Ms. Penny Kosmenko from Whitehorse, Yukon. She is the guest of the Honourable Senator Lang.

[ Senator Omidvar ]

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

**Hon. Senators:** Hear, hear!

## ROUTINE PROCEEDINGS

### CANADIAN JEWISH HERITAGE MONTH BILL

#### SEVENTH REPORT OF HUMAN RIGHTS COMMITTEE PRESENTED

**Hon. Jim Munson,** Chair of Standing Senate Committee on Human Rights, presented the following report:

Wednesday, May 10, 2017

The Standing Senate Committee on Human Rights has the honour to present its

#### SEVENTH REPORT

Your committee, to which was referred Bill S-232, An Act respecting Canadian Jewish Heritage Month, has, in obedience to the order of reference of April 13, 2017, examined the said bill and now reports the same without amendment.

Respectfully submitted,

JIM MUNSON

*Chair*

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

(On motion of Senator Frum, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

#### THE SENATE

#### NOTICE OF MOTION TO AFFECT QUESTION PERIOD ON MAY 16, 2017

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

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, May 16, 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.

[Translation]

## ADJOURNMENT

### NOTICE OF MOTION

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, May 16, 2017 at 2 p.m.

[English]

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Judith Seidman:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, for the purposes of hearing the Minister of Environment and Climate Change, during its consideration of Bill C-18, An Act to amend the Rouge National Urban Park Act, the Parks Canada Agency Act and the Canada National Parks Act, the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to sit at 5:00 p.m. on Tuesday, May 16, 2017, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

## ABORIGINAL PEOPLES

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Lillian Eva Dyck:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Aboriginal Peoples be authorized to meet on Tuesday, May 16, 2017, even though the Senate may be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

## QUESTION PERIOD

### NATIONAL SECURITY AND DEFENCE

#### RECOMMENDATION TO CANCEL SUPER HORNET FIGHTER JETS

**Hon. Larry W. Smith (Leader of the Opposition):** Honourable senators, my question today is for the chair of the Standing Senate Committee on National Security and Defence, our colleague Senator Lang.

I'm sorry, Senator Harder. I just had to ask this question.

**Senator Harder:** I can cope.

**Senator Day:** He won't take it personally.

**Senator Smith:** As all honourable senators are no doubt aware, this committee has received and released two recent reports: *Military Underfunded: The Walk Must Match the Talk*; and *Reinvesting in the Canadian Armed Forces: A Plan for the Future*.

Senator Lang, in your committee's eleventh report, which was tabled on Monday and for which you have received significant media coverage, the committee called on the Government of Canada to cancel the planned purchase of Super Hornet fighter jets.

Could you please outline for all honourable senators why your committee made this particular recommendation?

**Hon. Daniel Lang:** Honourable senators, I want to, first of all, say that the two reports that basically are the culmination of many days of hearings and, obviously, the testimony from witnesses, are very important documents for Canada and for the defence of Canada. I would highly recommend that everybody take the opportunity to read these reports, because there are long-term implications for our defence and our public security.

• (1430)

Going back to the question of the Super Hornets, we heard evidence and received testimony with respect to the implications of how the purchase of the Super Hornets would affect the Air Force in both the short and long term.

I want, for the record, Your Honour, to perhaps impart some of the evidence that we did receive because that gives credence to why we made the recommendation we did.

I point out, first of all, that we were quite concerned when we had the air force commander before our committee and it appears that the decision to go ahead with the Super Hornets wasn't taken in consultation with the Commander of the Royal Canadian Air Force.

We are very concerned that, in these decisions, the commanders, whether in the Army, the Royal Canadian Air Force or the Royal Canadian Navy, have to be present to give all of the implications of what a decision like this would be.

Going further, we heard from Brigadier General Greg Matte, and he wrote about the decision taken prior to it being announced. He said:

... if Canada purchased the Super Hornet, we would likely be the only country in the world flying it beyond the 2030 timeframe. Inevitably, the long term costs of supporting the software, replacing worn out parts, and attempting to upgrade the aircraft against obsolescence will far outweigh any potential savings at the time of initial purchase given that we'll be on our own.

The other information that all members received, and we received also as a committee, was the fact that 13 retired generals indicated in an open letter to the government that the interim replacement plan — I think it's very important that it be on the record — will be an expensive proposition, with cost estimates ranging from \$5 billion to \$7 billion, and urged the government to seek a better way of keeping the RCAF operationally effective until its fleet of CF-18s is replaced with a modern fighter. This could be accomplished, they suggested, by purchasing legacy Hornets, similar to the CF-18s, from Canada's partners, such as the United States and Australia, as they replaced their older Hornets with the F-35.

Colleagues, the recommendation was brought forward because there is a very major concern — I think throughout the country, not just necessarily in the Air Force — that, in the long-term, a decision has to be taken with respect to replacing the fleet that we have. We should cancel the sole-source contract that has gone out and go for a general competition and make a long-term decision for the Air Force because it is the defence of this country.

#### UNMANNED AERIAL VEHICLES

**Hon. Larry W. Smith (Leader of the Opposition):** Senator Lang, could you tell us also why the committee felt it important to address the issue of the unmanned aerial vehicle fleet?

**Hon. Daniel Lang:** Colleagues, first of all, perhaps for all members' information, when you refer to the unmanned aerial vehicle fleet, you are actually referring to drones so that we all understand what we're speaking of. We state in the report that the UAVs are important as they are able to stay in the air longer than most aircraft, at a fraction of the cost, and they do not put lives at risk. They are very valuable to the Army, allowing them to look over the hills and behind the buildings at no risk to the troops, obviously, and they are very much important to the Navy by extending the geometrical awareness of ships by letting captains know who else is sailing nearby. UAVs can also be used to deliver sonar buoys to spot lurking submarines. So there are a multitude of uses for the technology that has come forward in the last 10 years in the area of drones.

I emphasize as well that Canada's size is a defence and security challenge in itself. The comprehensive surveillance and control of such large swathes of unpopulated territory with the coastline we have — we have the longest coastline in the world — and vast maritime approaches can sometimes be best exercised with any degree of persistence from the air and the space rather than from the ground.

One of reasons that we also brought the recommendation forward is that the government has been studying the acquisition of a drone fleet for over 10 years, and it has not made a decision. It's overdue to make a decision on what types of UAV we need to purchase and go ahead and make the acquisition.

I think it's important that the military and procurement get on with the job they are asking because the time for studying is over.

#### MILITARY SPENDING

**Hon. Donald Neil Plett:** Clearly, I also don't want to start a family feud here, but I will also be asking my question of the chair of the Standing Senate Committee on National Security and Defence.

My question, Senator Lang, is: Senator Smith talked about the eleventh report and tabled your tenth report as well, and the report is very well done, especially your review of the spending on the military going back to the 1960 and the charts identifying how defence spending ranks as part of total government expenditures.

Senator Lang, for the record, could you please tell us what the federal government spending on military is now? You say that there should be an increase in military spending to 2 per cent of Canada's gross domestic product. Is that a little ambitious, Senator Lang, and is that something that should be achievable?

**Hon. Daniel Lang:** Colleagues, the reason for the recommendation, I think, is very clear. We are committed to 2 per cent of GDP with respect to our relationship with NATO and our relationship with NORAD.

When we went through and heard the witnesses, it became very apparent to us that we were under-resourcing the military needs in this country dramatically, and I think it was quite a surprise to all of us when we received the information from the Parliamentary Budget Office, through the Library of Parliament, that Canada



was actually expending 0.88 per cent because the public and Parliament were always under the impression that it was around 1 per cent. So that showed a dramatic and ever decreasing number in the expenditures that we were putting forward to the military.

I should also point out that spending on defence has been shrinking as a percentage of total government expenditures for a long period of time. The last time we hit 2 per cent was in 1989. From those years on, subsequently, it was cyclical, but it has become less and less. We are now at the lowest we've ever been.

The other point that had to be made and is made in the report is that we are, as a country, spending considerably more, on an annual basis, on government expenditures. In fact, we are going into significant deficits. Yet, none of that largesse is being directed toward the military.

I think most Canadians, if they knew what was happening, would say, "Look, where are our priorities?" Our priorities have to be the defence of this country and our commitments internationally, and we can't do that unless we have the necessary financing in place, progressively, over a long period of time, to be able to meet the demands that we have asked of our military. We cannot under-resource them. We learned that from Afghanistan. We put men and women in harm's way because, as a country, we expect them to go out and do the job that we have hired them to do. They are willing to do that job, trained to do that job, and we under-equip them.

I can safely say today that there are Canadians who are veterans who have suffered from the fact that we didn't do the job that we, in Parliament, should have done. This is a non-partisan issue, as far as I'm concerned, in the long-term of this country. I should say this: I think the government's in a very good position to make the long-term commitment because you have an opposition party that's in favour of it. They can move forward and we can develop a plan and a blueprint for the future of this country, for our defence, and try to make it as best we can and as non-partisan as we can, because the defence of this country shouldn't be made on a partisanship basis.

• (1440)

## CITIZENSHIP, IMMIGRATION AND REFUGEES

### SENATE AMENDMENT TO BILL C-6

**Hon. Ratna Omidvar:** Honourable senators, I'm going to revert to practice and my question will be to the Leader of the Government in the Senate, Senator Harder.

Today the Federal Court decided a very important case that weighs in on our work. The case is *Hassouna et al v. The Minister of Citizenship and Immigration*. It challenged the government's citizen revocation process. Madam Justice Jocelyn Gagné ruled in favour of the litigants and struck down the relevant sections of the Citizenship Act. She found that the government's process to

revoke citizenship on grounds of fraud or false representation violated a constitutional statute. The decision confirms that the Senate was correct and the government's process does not comply with the Bill of Rights, section 2(e).

Four key principles outlined by Justice Gagné are all found within the Senate's amendments to Bill C-6.

Will the government respect the Senate's amendment to restore due process?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question. Indeed the judgment of the Federal Court is an important one. The minister is reviewing the judgment and will, at the appropriate time, come forward with specific comments.

With regard to the question and the amendments put forward by the Senate, as senators will well know from both the presence of the former minister and this minister as well as committee consideration of Bill C-6, the government expressed its openness to receive amendments with respect to right of review. The government is considering the Senate bill, as amended, and will be making a decision very shortly.

[Translation]

## NATIONAL SECURITY AND DEFENCE

### ELEVENTH REPORT OF COMMITTEE

**Hon. Renée Dupuis:** My question is also for the chair of the Standing Senate Committee on National Security and Defence. There was no indication of whether the report was unanimous. I would like the honourable senator to provide this information, namely whether the report was unanimously adopted by the members of the committee.

[English]

**Hon. Daniel Lang:** I'm sorry. Can you repeat the question?

[Translation]

**Senator Dupuis:** Certainly. You described the contents of the committee's report, but you made no mention whatsoever of the amendments or the dissenting opinions of certain members. I was wondering if you could provide this information and tell us whether the report was unanimously adopted by the committee members.

[English]

**Senator Lang:** That's a very good question and for the record I just want to reaffirm this.

During the course of our hearings, obviously there were some major changes in the composition of the committee, not unlike other committees. Members joined the committee halfway through the hearings and were put in the situation that they were not really part of the full process. We clearly identified that at the start of the documents. Throughout the course of the hearings, like any other committee, there are always dissenting opinions. If there wasn't, we wouldn't have any committee hearings.

At the end of day, the report is a compilation and a compromise, and there is a consensus, generally, to move forward with the various recommendations in the report. So we were not unlike any other committee.

However, there was some dissension among members as we moved along. Sometimes it's difficult, but at the end of the day our purpose is to get a report and a sound body of work that we can present to this house for debate. Hopefully it will form part of the policy-making for the Government of Canada.

[Translation]

#### CANADA'S PARTICIPATION IN NORAD

**Hon. Pierre-Hugues Boisvenu:** Honourable senators, the Standing Senate Committee on National Security and Defence did remarkable work and my question is for the committee chair. First, I would like to recognize the equally remarkable contribution of my two colleagues who sit on the committee, Senator Dagenais and Senator Lang, and whose educational efforts to explain these two studies deserve to be recognized. I heard comments to that effect outside of the committee. Thus, congratulations to the committee.

[English]

Can you explain to the chamber why the committee recommended that Canada should increase its participation in NORAD and how we should do it?

**Hon. Daniel Lang:** Colleagues, first, I want to take this opportunity to recognize the deputy chair, Senator Jaffer, who did a lot of work on this report and was part of the press conference when we presented it. I want to commend her for her work.

Colleagues, I don't think I have to tell you that Canada is an important part of NORAD. At the same time, I think it's safe to say that over the last 30 years, we have become less and less active and committed to our obligations with NORAD. Since the decision was made in 2005 not to participate in the ballistic missile defence program, that has been a source of concern I think for Canada and for the Americans in the fact that we are not fully committed to the principles of NORAD.

We, as a committee, produced a report a number of years ago recommending to the past government that they make a decision to go ahead and fully participate in the ballistic missile defence

program. Up to this point, the government has not been prepared to move in that direction but I believe — and I believe the committee fully endorses this — that we should be a full participant if we are going to participate in NORAD. Quite frankly, we have no choice.

We are very fortunate that we are the only two countries in the world that share our defence. There are good reasons for it. But we have to meet our obligations on our side of the fence in order to be able to continue that participation going forward.

There are very major concerns out there, I'm sure, from the point of view of Canada and the United States about the early warning system that's in place and is becoming obsolete. That will have to be replaced. That will involve billions of dollars, depending on the decision taken.

There are significant reasons why we should be meeting our obligations with NORAD. We are also recommending that we expand our cooperation with them in certain areas so that we can further develop that relationship. We have asked for increased cooperation in the areas of maritime defence, domain awareness cooperation and cyberdefence. The world has changed. Technology is changing and Canada and our military should be moving forward in that direction. This report is designed to help them go forward to meet those obligations.

[Translation]

#### MILITARY PROCUREMENT

**Hon. Jean-Guy Dagenais:** My question is for the chair of the Standing Senate Committee on National Security and Defence, too. Mr. Chair, I want to start by saying that I am a proud member of the committee and that I was especially proud to be a member during its recent study.

In our committee's 10th report, which was published in April, we recommended that the government fix the problems related to military procurement in Canada. Senator Lang, can you explain to the honourable senators why this issue was so important to the committee?

[English]

**Hon. Daniel Lang:** Colleagues, I hope you're not finding this boring. When you hear the word "procurement," you automatically think procurement, but procurement is extremely important. From the perspective of the committee, the system in place right now is broken. It was felt that we should seriously look at that area and bring in some recommendations so that we could have this public conversation.

• (1450)

I might even go so far as to say the question of procurement is the second biggest problem that the Department of National Defence faces. The first is, of course, that it is being

[ Senator Lang ]

under-resourced. But the way the procurement process is undertaken has to be a very grave concern to all Canadians.

The other point that has been made is that they are under-resourced and money is not available, yet at the same time, because of the procurement program and the processes in place, we actual lapse billions of dollars that should have been spent. They say that they don't have enough finances for defence, but we are lapsing billions of dollars because there is a paralysis in the procurement process and decisions aren't being taken. That has to be remedied.

Whether it's a question of deploying troops, acquiring new capital equipment or drafting new defence policy, making sound decisions relies on a combination of risk assessment and good business.

Based on information we've received, right now the system leads to costs of over \$1 million a day because of inefficiencies. That in itself has to be alarming and obviously should be addressed and remedied.

I want to put on the record a couple of points. Dan Ross, the former Assistant Deputy Minister (Materiel) at the Department of Defence, argued that unclear accountability in the department's procurement process matrix actually created risks. He said:

The current accountability paradigm is clear: Everyone is accountable, and no one is accountable. Three central agencies and three departments share accountability but not the consequences; only DND lives with the consequences of the budget, the lives of the soldiers and the delivery of effects.

He went on to explain that the Department of National Defence oversees every aspect of procurement, save contracting activities under the Defence Production Act and Public Services and Procurement Canada, formerly Public Works Canada, responsible for the tendering of contracts and projects of over \$1 billion.

To come to a conclusion, the procurement process has to be remedied. We have made certain recommendations that we, as a committee, felt could in part remedy the situation they face.

**Hon. Mobina S. B. Jaffer:** May I note that in our report, we did not talk about one government; we talked about successive government's failures?

**Senator Lang:** I don't know if the senator was paying attention when I did speak to that. I said successive governments over periods of time have been under-resourced and that's why we are where we are now. This is not the consequence of five years ago; it's a consequence of over 30 years. The military is living with the decisions, or non-decisions, that have been made over that period of time and we are now at 0.88 per cent.

That's the point I made about the question of non-partisanship. We have to and we should be looking for a long-term plan for the military and have the opposition parties make a commitment to

go in that direction so that Canadians know that the defence of this country is above partisanship and politics and that their well-being in the long term is being taken into account.

**Hon. Yonah Martin (Deputy Leader of the Opposition):** My question is also for the Chair of the Standing Senate Committee on National Security and Defence.

Senator Lang, in the National Security and Defence Committee's tenth report, released in April of this year, you call on the government to build cross-party consensus on military issues. You just answered that in response to what Senator Jaffer asked, but would you explain why the committee feels that this is a very important measure?

**Senator Lang:** I just want to follow up on Senator Jaffer's comment. It is a very important recommendation that we have in the report. We recommend a number of aspects that go toward cooperation.

There was an underlying theme for many of the witnesses who came before us, out of frustration, that every time there is an election, there is a substantial change in the direction of the military. You go ahead and then you lurch, and that applies to all political parties.

I want to emphasize that this is a non-political report. This report is designed to constructively provide for the government a basis to go ahead. It's a blueprint for the long-term future of the military.

We called on the Minister of National Defence to ensure that members of the three services — army, air force and navy — meet with parliamentarians at least annually in committees and in their constituencies to further understand the role of the Canadian Armed Forces and their requirements; in other words, to encourage more of an interplay between the military and the general public through their members of Parliament and their senators.

We also asked that the Prime Minister regularly brief the Leader of the Official Opposition and the leader of the third party on matters of national security on an ongoing basis. In other words, work out that relationship that's so important, individual to individual, so that when you need to really discuss the major decisions that affect Canada, you are in a position to go into that room and do it.

I think back to when I had the opportunity to represent the Senate, along with Senator Campbell and Senator Hubley, at the ceremony on Vimy Ridge. I have to say that Canada did itself proud. But I also recall that the question was put to the leader of the third party, Mr. Mulcair, and he regretted that he had not been invited to go.

I think that represents where we are right now. Mr. Mulcair and the Leader of the Official Opposition should have been invited and should have been there, for a number of reasons, representing the country in its totality from all political aspects. More importantly, it would give that opportunity to the Prime

Minister to speak on an informal basis with his colleagues and develop that relationship without having to be in the cut-and-thrust of Parliament.

I also want to say that we recommend — and this is important — that the Parliament of Canada establish a special joint parliamentary committee with the Senate and the House of Commons to study and report on military procurement. That was done for two reasons. The first is that it is obviously a very important area for Canada. Second, it brings the house and the Senate together to look at these issues and to try to get above the partisanship that now dominates the politics of military expenditures.

**The Hon. the Speaker:** Honourable senators, time for question period has expired.

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, I wish to advise that I have received confirmation from Mr. Stephen Wallace, Secretary to the Governor General, that His Excellency has received from former Senator Meredith a letter indicating he has resigned his seat in the Senate.

### ETHICS AND CONFLICT OF INTEREST FOR SENATORS

#### SECOND REPORT OF COMMITTEE DISCHARGED

Leave having been given to proceed to Other Business, Reports of Committees, Other, Order No. 32:

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Carignan, P.C., for the adoption of the second report of the Standing Committee on Ethics and Conflict of Interest for Senators, entitled *Consideration of an Inquiry Report from the Senate Ethics Officer*, presented in the Senate on May 2, 2017.

**Hon. A. Raynell Andreychuk:** Honourable senators, pursuant to rule 5-7(k), I move that the order for the adoption of the Second Report of the Standing Committee on Ethics and Conflict of Interest for Senators be discharged from the Order Paper.

**The Hon. the Speaker:** It is your pleasure, honourable senators, to adopt the motion?

[ Senator Lang ]

**Hon. Senators:** Agreed.

(Motion agreed to and order for the adoption of the report discharged.)

• (1500)

[Translation]

### TOBACCO ACT NON-SMOKERS' HEALTH ACT

#### BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

**Hon. Chantal Petitclerc** moved the third 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, as amended.

She said: Honourable senators, I rise today to open the debate at third reading of Bill S-5, the Tobacco and Vaping Products Act.

[English]

It has been a privilege to be the sponsor of this important piece of legislation, knowing that it will help support the health of Canadians, especially our youth.

But before we go further, allow me to remind honourable senators of the “what” and “why” of Bill S-5. What is Bill S-5 going to accomplish? As you will recall, Bill S-5 strikes a balance between protecting youth from nicotine addiction while allowing adult smokers to legally access vaping products as a less harmful alternative to tobacco.

Why is Bill S-5 so important? It is a matter of life and death, literally. No, I'm not being over-dramatic. With 37,000 Canadians dying each year from the effects of tobacco, one every 14 minutes, we have not won the fight against tobacco yet, and we will not give up.

How do we do this? Through Bill S-5, the government has committed to implementing plain and standardized packaging for tobacco products to make them less attractive. The plain and standardized packaging measures would apply to all tobacco products.

Bill S-5 also addresses vaping products. Specifically, Health Canada is concerned that their increasing use could reverse the gains that have been achieved over decades of tobacco control efforts. No one wants that to happen. The importance of restricting access to vaping products to youth has been recognized internationally by many provinces and territories, and from the vaping organizations.

[Translation]

In mid-April, the Standing Senate Committee on Social Affairs, Science and Technology concluded its study of Bill S-5. I am very proud of the professional and conscientious job the committee

did. I am saying that, not only to acknowledge Senator Ogilvie's leadership, but also to assure you that the committee properly and thoroughly examined Bill S-5, always keeping in mind that the health of Canadians is the top priority.

[English]

Over five days of meetings, we heard from consumer advocates, industry representatives, public health experts, academics and government officials representing 15 organizations. Add to this the many written reports we received and you will all agree that the study of Bill S-5 was thorough.

During that time, a number of concerns were raised, carefully considered and addressed by the committee. Today, I will speak directly to those main concerns.

First, let's start with the one we've all heard, whether we wanted it, via our mailboxes, newspapers, calls to our offices: plain packaging. On the plain packaging of tobacco products, you may be asking, "Does it even work?" We certainly heard from the tobacco industry that plain packaging does not work. But for me, actions speak louder than words, and something did not add up between what the industry was saying and what they were doing.

[Translation]

That is why, when Imperial Tobacco Canada appeared before the committee, I asked its representatives a very simple question. "If plain packaging does not work, as you claim, why does Imperial Tobacco invest so much time, money and expertise in packaging its products?" It does not make any sense to me to make those kinds of investments if, as they claim, the packaging does not have an impact on attracting new users. During their testimony, representatives of Imperial Tobacco said that the only reason they invest in tobacco packaging is to promote their brand and distinguish their products from illegal tobacco products. I have my doubts about that.

[English]

Honourable senators, what we learned is that plain packaging does work. Tobacco packaging is one of the very few remaining channels available for the promotion of tobacco products in Canada. In fact, the promotion of tobacco through packages and products is especially effective with teenagers and young adults, because it is at that time that brand loyalty and smoking behaviour are beginning to be established. Do I need to remind you that 82 per cent of long-term smokers start before the age of 18? We have to close that door and keep it closed.

Independent research studies, for more than two decades and in multiple countries, have shown that plain packaging requirements reduce the appeal of tobacco packages and the products they contain, especially to youth.

[Translation]

The Australian experience with plain packaging is telling. Since 2012, there has been a decrease in the prevalence of tobacco use, which has been in part attributed to the standardization of

tobacco packages. In fact, Australia undertook an expert analysis of the post-implementation period and found that the packaging changes — which included both plain packaging and graphic health warnings — resulted in an estimated 108,200 fewer smokers. That is without counting all those who never started smoking as a result.

Therefore, we know that plain packaging works. You must then be asking whether plain packaging measures lead to an increase in illicit tobacco.

[English]

After all, the tobacco industry has made the following claim:

Plain packaging would materially facilitate counterfeiting and smuggling, and thus the distribution of products through unregulated, untaxed criminal networks which are more readily accessible to underage and vulnerable smokers, while at the same time making policing the illicit trade in tobacco significantly more difficult.

Honourable senators, the statement I just read was actually made by the British American Tobacco Australasia in their 2011 submission to the Australian Federal Department of Health and Ageing on the Australian Tobacco Plain Packaging Bill. Despite a lack of evidence, the industry continues to make the exact same claims six years later here in Canada, as we heard during our committee hearings on Bill S-5.

Honourable senators, what is interesting is that in doing a bit of research, you will notice that it is pretty standard for the tobacco industry to raise the concern of increased illicit tobacco when a government — any government, anywhere on the planet — proposes additional public health measures to reduce tobacco use.

For example, the Canadian tobacco industry has raised the concern of increased illicit tobacco in 2009, when the use of flavour additives in cigarettes and little cigars was banned; again in 2011, when new health warning labels on cigarettes and little cigars were introduced; again in 2015, when the use of flavour additives in additional cigars was banned; and finally again in 2017, when the use of menthol in cigarettes and most cigars was banned.

So I think we can see the trend.

[Translation]

In fact, honourable senators, the experts have assured us that there is no evidence that illicit tobacco has increased in any way following the implementation of any of these public health measures in Canada. Similarly, the Australian Government's Department of Immigration and Border Protection stated that there is no evidence to suggest that plain packaging has had any impact on the illicit tobacco market since its introduction in Australia in 2011.

• (1510)

[English]

So when it comes to plain packaging, I am convinced more than ever that it will do exactly what it is intended to do: prevent our

youth from ever starting to smoke, with no increase in contraband. That is all that should matter.

I would like to take this opportunity, as I did in my speech at second reading, to clarify and emphasize that there has been no finding of a breach of intellectual property rights in any of the other countries that have already implemented plain and standardized packaging. There has also been no finding that it is inconsistent with any international trade agreement.

Now that we all agree on plain and standardized packaging, I hope, let's move to vaping products.

In respect to vaping products, the committee heard witnesses and colleagues express concern that Bill S-5 was too restrictive.

Some of you may be asking yourself, "Why would Bill S-5 prohibit flavours?"

Let me get this on the record once and for all: Bill S-5 does not prohibit flavours.

Honourable senators, early on during the committee hearings we were able to set the record straight on this point. The blends of chemicals that create certain popular flavours, like blueberry cheesecake, for example, and apple pie, would not be prohibited by Bill S-5. Let's be clear: Bill S-5 would prohibit the promotion of flavours that appeal to youth.

[Translation]

It is a nuance, but a very important one.

[English]

I think we can all understand that flavours make vaping products more appealing to adult smokers seeking a less harmful alternative to tobacco. Senator Gold said it the best: "because we all have a little child in us." In fact, some flavours may even encourage adults who smoke to use vaping products instead.

That said, the promotion of vaping products with flavours like dessert, candy and soft drinks may appeal to youth in particular and cause them to start to use vaping products. This is why Bill S-5 would prohibit the promotion of these flavours.

Even with this clarification, some witnesses expressed the view that the potential for desserts or other similar flavours to appeal to youth was not a good enough reason for prohibiting their promotion. These witnesses indicated that it was important for users of vaping products to have accurate descriptions of the flavours they would be purchasing.

Honourable senators, what we have to keep in mind is that Bill S-5 is all about balancing the health risks to youth with the potential health benefits to adults who smoke. Remember, vaping products are still a fairly new product. Scientific knowledge is evolving. It is clear that vaping products are still harmful and addictive, and especially to youth. At the same time, they may be beneficial to the health of smokers if vaping products help them quit smoking or switch completely to a less harmful source of

nicotine. This is why this approach on flavour is exactly the right thing to do. This is what some people would call a win-win situation. Adults get their flavours; youth stay protected.

Given the risk of vaping products, one of the questions was: Is Bill S-5 doing enough to restrict vaping product advertising? Yes, it does, especially with amendments.

[Translation]

Public health advocates, such as the Non-Smokers' Rights Association, the Canadian Cancer Society and the Canadian Lung Association, certainly had a lot of questions about that.

[English]

Honourable senators, I shared this concern, but I was reminded of the careful balance that the government used in drafting Bill S-5. In developing the advertising prohibitions for vaping products, care was taken to ensure that any limits on Charter rights would be reasonable. The risk and potential benefits of vaping have to be taken into consideration.

[Translation]

However, Health Canada did recognize that there was an opportunity to strengthen Bill S-5 in respect to vaping product promotion. As such, I introduced an amendment to Bill S-5 to establish a new prohibition on the advertising of vaping products that would be contrary to regulations. This amendment, which was supported by my committee colleagues, will help ensure that the government has the flexibility to respond to future advertising tactics related to vaping products.

The new provisions will allow the government to make regulations that would, for example, specify where and at what time advertisements of vaping products could be communicated.

[English]

Also on the subject of promotions, the committee adopted a motion that I introduced that would prohibit vaping product manufacturers and retailers from giving merchandise for free. It could be a smartphone case or baseball cap that would have a vaping product brand on it. This additional prohibition is intended, obviously, to help prevent young people from being lured into vaping through the giving of free promotional merchandise.

[Translation]

Some of you may be wondering why, as some people have said, Bill S-5 limits the sharing of scientific information that might help convince smokers to switch to a less harmful source of nicotine.

[English]

Honourable senators, I can assure you that that is not the case. Bill S-5 does not prohibit the publication of scientific work in regard to vaping products. What Bill S-5 prohibits is using

scientific work as a means of commercial promotion marketing that is directed at consumers.

This means that the vaping industry can share, and hopefully will share, legitimate scientific reports about vaping products in their entirety with their clients, but they cannot use parts of a scientific report as a marketing or promotional tool for their product. That seems fair and balanced to me.

Some of you may be reassured by that point but may be wondering why Bill S-5 would prohibit the vaping industry from telling their clients that vaping, while harmful, is less harmful than smoking. We certainly did hear that concern from vaping consumer advocates, the vaping industry and some public health experts.

[Translation]

In fact, Dr. John Britton, a professor at the University of Nottingham and the Director of the United Kingdom's Centre for Tobacco and Alcohol Studies, specifically requested the opportunity to provide testimony on Bill S-5, because of the clause that would prohibit making comparisons between the use of vaping products and smoking. Dr. Britton indicated that he thought it was a "no-brainer" to switch from smoking to a less hazardous product.

[English]

Dr. David Hammond from the School of Public Health and Health Systems at the University of Waterloo also noted that there is ample evidence to state right now that vaporized products will be less harmful than smoked tobacco products. But he also stressed that they are liable to produce harm.

• (1520)

Both of these academics indicated support for the vaping industry to be able to include strictly regulated comparative claims on their vaping products, like "Harmful but less harmful than smoking."

[Translation]

This expert opinion convinced me, as it convinced many of my colleagues, which is why I was pleased to bring forward an amendment to Bill S-5 to address this concern. This amendment was adopted by the committee.

[English]

This new provision would continue to protect Canadians from being deceived or misled with respect to the health hazards of using vaping products. It would, nonetheless, give the vaping industry the opportunity to use approved statements that would be set out in regulations regarding the relative health risk of vaping products in comparison to tobacco.

Some of you may be wondering about whether "quitline" services would be able to give out free vaping products to smokers

wishing to switch to a less harmful source of nicotine, like patches, for example.

[Translation]

A few people shared their concerns in this regard with us. Specifically, some public health stakeholders expressed concern that Bill S-5 would prohibit manufacturers and retailers from providing vaping products for free, under regulation, to public health services, which would then distribute them to individuals wishing to switch to vaping products.

[English]

In recognition of that, I proposed to amend Bill S-5 to create an exception to the prohibition on giving or offering to give a vaping product for situations that would be set out in regulations. This amendment was supported by my colleagues and will help ensure that Bill S-5 has sufficient flexibility to, in the future, when needed, allow for the free distribution of vaping products by the vaping industry, but only where it would be in the public health interest to do so.

In closing, honourable senators, I would like to acknowledge the good work of my committee colleagues on the study of Bill S-5. While each of us brought different perspectives to the table, I think it's fair to say there was general consensus on the need for a new approach to regulating vaping products. Each of you raised important questions with our expert witnesses that helped answer a thorough examination of this important public health legislation.

I want to acknowledge also the efforts of Senator Seidman, her collaboration and her diligence as the critic for the official opposition.

Thank you, Senator Cordy, for your ongoing collaboration.

I would like to thank the committee chair, Senator Ogilvie, for his leadership in ensuring a constructive review of Bill S-5.

Finally, honourable senators, I would like to reinforce that Bill S-5 is balanced legislation that protects youth from nicotine addiction and inducement to tobacco use, while allowing adult smokers to access vaping products legally as a less harmful alternative to tobacco.

In closing, some people have reached out to ask me how I intend to help Bill S-5 move forward. Do I have a negotiation plan or a strategy? My quick and honest answer to this question is no, I don't and I won't, but I do strongly believe that this bill is very important and that it is crucial we send it to the other place quickly. This is why, honourable colleagues, the only thing I will ask of you is to take 5 or 10 minutes and do this: Go online and google "teenager vaping video" or "teenager vaping contest."

While you surf, keep in mind that some provisions of Bill S-5 will come to play on Royal Assent, not one day later, one of them being interdiction to provide vaping products to youth under the age of 18.

Knowing that, you can decide how quickly we should send this bill to the other place. If, like me, you feel that the health of our youth is our most precious resource and not something we want to take lightly, please support me in moving Bill S-5 forward as soon as possible.

**Hon. Judith Seidman:** Will the honourable senator take a question?

[Translation]

**Senator Petitcherc:** With pleasure, yes.

[English]

**Senator Seidman:** Thank you for your speech, senator, and all the work you have done on this bill. As you stated, our committee heard from the full spectrum of witnesses and heard important testimony that led to us making serious observations and amendments to Bill S-5.

One of the issues of concern discussed with witnesses in committee that you touched upon here today in your speech on third reading is advertising and promotions of vaping products. In committee, we struggled on the best way to ensure youth are protected.

Last week we received an important letter from Coalition québécoise pour le contrôle du tabac. If I may briefly quote from their letter:

[Translation]

This legislation would increase youth and adolescent exposure to advertising that portrays vaping devices as trendy, multicoloured, electronic gadgets with catchy slogans on huge billboards and on bus shelters near schools, or even on public transit or in shopping malls, not to mention all the ads on television, on the radio and online.

[English]

Bill S-5 restricts vaping advertising directed at youth solely to what is termed "information advertising," yet Bill S-5 does permit lifestyle advertising to adults. The concern expressed by witnesses is that youth will be influenced by all advertising, whether it is directed directly at them or not.

Has there been serious reconsideration by the Minister of Health of a more restrictive approach to advertising vaping products that would permit nothing but information advertising right across the board to adults as well as youth?

[Translation]

**Senator Petitcherc:** Thank you for your question.

[English]

It is something that we did talk about a lot in committee. The whole thing with Bill S-5, and the key word, if I have to find one, is "balance." We have repeated it many times because that is what

it's all about. When you look at the bill and "tobacco" versus "vaping," you have this spectrum of things. We know that tobacco is deadly. We know that the best-case scenario is not using anything that is harmful and addictive. But in the middle of that is vaping.

We learned in committee — we heard many numbers, and you were there too — is that in England they say it is 95 per cent less harmful than tobacco, but we have heard 40 per cent, 60 per cent, so somewhere in there, especially for the short term. The long term is not known. What I'm saying is with the risk and the harm being a lot less than it is for tobacco, the restriction cannot go as far as we can go with tobacco.

Of course Bill S-5, like any other bill, was examined and found to be consistent with the Charter. It was believed that the balance of respecting the rights of the vaping industry versus protecting consumers, Canadians and smokers, especially our youth, was respected.

Like you said, brand preference advertising is permitted in Bill S-5, and that means information and logos. Everything that is targeted to kids is not, obviously.

• (1530)

Lifestyle promotion is permitted in adults-only places, like bars. Again, all of that is because it needs to be consistent with the Charter and it is felt that vaping is less harmful than smoking. There is a consistency and logic to it. To be honest, I would like to make it more restrictive. But I understand the logic of it and the desire not to end up in court for the next 10 years as we've seen with the tobacco industry. This makes sense to me.

I think we did a really good job in committee with the amendments, making sure that we closed some of those gaps. One of the amendments on restricting vaping products in the future addresses that. While information advertising is permitted, it wasn't precise and didn't go far enough. For example, this amendment also provides the right in the future, if it's necessary to do so, to restrict the when and where of information advertising. If, for some reason, a vaping company chooses to use information advertising, as they can, on a Saturday morning during cartoon time, the bill would be able to restrict that and protect our youth.

I think the restriction versus what we need to respect in terms of the Charter and the rights of the company is well-balanced. The flexibility of the bill ensures that we will stay in touch with everything that may come up to adapt it in the future.

**Hon. Yonah Martin (Deputy Leader of the Opposition):** First, senator, having listened to you speak at both second and third reading; having heard Senator Seidman and Senator Ogilvie speak about this in our caucus meetings and in private conversations, I am now on board in support of this bill, knowing that the industry exists and that we need to regulate it. It's about focusing on the health and safety of youth that could be potentially in harm's way.

Having said that, I do have another group that I just cannot overlook. My question is regarding the licensing eligibility or process. You may not be able to answer now, but the bottom line

[ Senator Petitcherc ]



for convenience store owners — who open and operate as a family, with maybe one or two employees, and who work 16- to 20-hour days — is that the decrease in cigarette sales will mean potentially closing their doors. I know they are a proven group of retailers who have sold legal tobacco and other products, but that is one of their areas where they derive some profit. They are a group that have been proven to be very responsible. They are law-abiding and pay their taxes.

In terms of eligibility to sell vaping products, would convenience store owners be eligible? Would that happen at the regulatory stage? Would you speak to that if there is something you can add?

**Senator Petitclerc:** Thank you for the question. Yes, you are right. This was a concern that was addressed. Bill S-5 deals with that through regulation. All I can say on that very specific question today is that it will be addressed through regulation and that that concern has been heard in committee. It is on the record. How it will be applied in the regulation is something that, obviously, I cannot answer, but yes, I do understand that.

[Translation]

**Hon. Marie-Françoise Mégie:** Honourable senators, I rise today to express my support for Bill S-5. The purpose of this bill is to protect the health of Canadians by regulating the tobacco and vaping industries. By means of the provisions in this bill, the Canadian government will support people who want to stop using tobacco products. By creating a legislative framework, Bill S-5 will raise people's awareness of the dangers of tobacco consumption and give them ways to reduce their consumption.

Only a comprehensive, integrated approach will enable smokers to quit smoking. Anti-smoking measures must be implemented cohesively, not in isolation. By providing appropriate policies and programs, we will eventually get this problem under control.

Countless studies and ample expert testimony in committee, combined with my experience as a physician, have led me to conclude that, despite being potentially harmful, vaping products can help people quit smoking. By regulating these products, we are offering smokers a way to quit for good.

We all know that people get addicted to cigarettes because they get addicted to nicotine, so it is important for us to look at listing nicotine content on vaping products.

As set out in clause 12 of the bill, the government may make regulations establishing, quote:

... standards respecting ... the amounts and concentrations of substances that may be contained in [vaping] products ...

Therefore, I want the appropriate government authorities to establish a policy requiring clear and legible product information for these products.

In committee, we heard that vaping products are targeted at people who want to stop smoking. Therefore, specific regulations for the printing of the nicotine content on the exposed surface of

the packaging will help smokers trying to quit make an informed decision. If the amount of nicotine is clearly visible and easy to read, buyers will be able to better manage their smoking cessation strategy when they choose to turn to vaping products.

Honourable senators, I do not want our work to be in vain. I want it to result in concrete action. We must try to take preventive action in tobacco control. By intervening directly at the source of the habit we will be providing Canadians with appropriate smoking cessation strategies. Thank you for your attention.

[English]

**Hon. Tony Dean:** Honourable senators, as Senator Ogilvie reported yesterday, I proposed a motion in committee to amend Bill S-5 which was subsequently approved.

The purpose of the amendment was to extend an existing partial ban on the use of menthol and clove products to all tobacco products. The motion was approved at committee; it was not contentious.

I rise today because we have since learned that the amendment was technically flawed and requires correction. I propose to do this through an amendment, which I will now read and which will be momentarily in front of you.

The amendment would not change in any way the policy intention of the motion at committee; it is purely to address technical issues.

• (1540)

#### MOTION IN AMENDMENT

**Hon. Tony Dean:** Therefore, honourable senators, I move:

That Bill S-5 be not now read a third time, but that it be amended in clause 68 (as amended by decision of the Senate on May 9, 2017), on page 41, by replacing subclauses 68(3) and (4) with the following:

#### “(3) Schedule 1 to the Act is amended

(a) in Column 1 of item 1, by adding “(other than those set out in Column 1 of item 1.2)” after the word “flavour”;

(b) by adding item 1.2 after item 1.1;

(c) in Column 1 in relation to item 1.2, by adding “Menthol, including l-menthol, and menthone, including l-menthone”;

(d) in Column 2 in relation to item 1.2, by adding “Tobacco products”;

(e) in Column 1 of item 9, by adding “(other than those set out in Column 1 of item 9.1)” after the word “herbs”;

(f) by adding item 9.1 after item 9;

(g) in Column 1 in relation to item 9.1, by adding “Cloves”; and

(h) in Column 2 in relation to item 9.1, by adding “Tobacco products”.

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

**Hon. Senators:** Question!

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

**Hon. Senators:** Agreed.

(Motion in amendment agreed to.)

(On motion of Senator Cordy, debate adjourned.)

## NATIONAL SECURITY AND INTELLIGENCE COMMITTEE OF PARLIAMENTARIANS BILL

### BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Bellemare, for the second reading of Bill C-22, An Act to establish the National Security and Intelligence Committee of Parliamentarians and to make consequential amendments to certain Acts.

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise today to speak on Bill C-22 an act to establish the national security and intelligence committee of parliamentarians and to make consequential amendments to certain acts.

This bill may create a committee of parliamentarians to act as oversight for the 17 departments and agencies responsible for intelligence and national security.

I would like to first thank Prime Minister Trudeau and Minister Goodale for their work on this oversight bill. They have worked hard to start the process of restoring the balance between national security and human rights. I thank them for their vision.

I would also like to thank Senator Harder who has presented a comprehensive presentation of Bill C-22 as the sponsor in the Senate.

Before speaking on the substance of this bill, I would like to speak on why Bill C-22 is so important. There is a widespread belief in an imbalance between Canada's efforts to ensure its

national security and its efforts to protect the human rights of its citizens. This perception comes from many unanswered questions Canadians have about our intelligence and national security system.

Since the Maher Arar incident in 2002, this list has become a long one. Some of these questions include: How are our Charter rights protected by bills like Bill C-13 and Bill C-51, which have both given our security agencies, like CSIS, unprecedented powers? How could the Operational Data Analysis Centre, which collected metadata from Canadians for years without anyone ever knowing, have existed at all? Can we trust our security departments to review our security and intelligence agencies given that so many human rights violations have already happened?

With all of these questions, Canadians cannot help but wonder what their government is doing to protect their rights against the intelligence agencies that should be keeping them safe.

When our national security system does not protect a citizen's rights, the most vulnerable in our society will be hurt. Often I hear concerns from Muslim Canadians across the country. They contact me about their fear that their rights will not be respected under our current national security system. They are afraid. They know that when CSIS comes knocking at their door, there is a very real risk that they could lose everything. They are afraid because they have no one. They have no one who will speak for them. When fear like this exists, our most vulnerable Canadians need oversight to look into these very important questions.

Oversight means understanding that we have an obligation to our most vulnerable Canadians. This means respecting their human rights and ensuring that they will not be victimized in the name of national security.

On the other hand, it also involves helping our national security and intelligence personnel with important work that they do every day. This means working with them to understand how their work keeps us safe. Most importantly, it involves restoring the balance between national security and human rights. The committee of parliamentarians created by Bill C-22 represents an important first attempt to create oversight for our national security and intelligence system.

Three senators and eight members of Parliament on the committee will be given security clearances and will gain access to classified information. Using this information, they will act as oversight for all 17 departments and agencies responsible for intelligence and national security. This is an important first step for Canada to take. Until now, parliamentarians have experienced difficulties obtaining information relevant to national security and intelligence.

[Translation]

With this measure, Canada will be in step with its allies around the world, especially the Five Eyes group. By making the committee of parliamentarians responsible for oversight, Bill C-22 will ensure that Parliament is accountable to Canadians. As parliamentarians, we have the duty to represent the very people that our national security and intelligence system seeks to protect.

In our work, it is just as important to protect Canadians' rights and freedoms as it is to protect national security. These responsibilities make parliamentarians the ideal group to represent Canadians in our quest for answers to important questions about national security and intelligence.

[English]

Given the important role that all parliamentarians, including senators, will play on the committee of parliamentarians, we must ensure a proper balance and composition between the two houses.

This is not the case in Bill C-22. Subclause 4(2) states that the committee of parliamentarians is to be made up of no more than eight members from the House of Commons and no more than three members from the Senate.

This goes against the principle that Parliament is always recognized in joint committees. Committees must reflect the proportional relationship between the two houses. Specifically, joint committees must have a balance of one third Senate representation to two thirds House of Commons representation. This tradition can be found in the rules of Parliament.

*House of Commons Procedure and Practice* states:

By practice, the number of Members appointed to a special joint committee reflects relative proportions of the Senate and the House of Commons.

The *Senate Procedure in Practice* also outlines the rule, stating that:

Joint committees are composed of both senators and members of the House of Commons. Membership typically reflects the relative size of the two houses.

As of now, the committee of parliamentarians does not reflect this reality. Three members are far fewer than one third of the committee's membership. Further, the wording of subclause 4(2) deepens my concern about the committee's composition.

It states that the committee of parliamentarians consists of not more than three senators. This vague wording concerns me as "not more than" means that the committee may not even have three senators. There is simply no certainty about the actual number.

This could lead to further imbalances on the committee, such as situations where there are eight members of Parliament and one senator on the committee of parliamentarians.

[Translation]

This imbalance is unacceptable, because the committee of parliamentarians would benefit greatly from an adequate representation of senators. Under the Constitution, the Senate is mandated to represent the provinces and to act as a chamber of

sober second thought. What is more, our participation on the committee of parliamentarians would allow us to acquire a lot of knowledge and experience that could guide our studies.

• (1550)

[English]

As we study this bill, I urge you all to consider changing the wording of this clause to ensure that there is proper balance between both houses. In particular, I recommend that we adopt this wording: "The committee may consist of up to four, but shall have at least three members who are members of the Senate." Using the words "shall have at least three members" ensures that the Senate will not be denied the membership it deserves. Further, stating that up to four senators may be on the committee ensures our chamber makes up one third.

Before concluding, I would like to place Bill C-22 in a greater context. This is only the first step toward balancing security and human rights. The system proposed from Bill C-22 is far from perfect. In fact, the bill itself recognizes this fact. Clause 34 of Bill C-22 states that the committee must have a comprehensive review every five years so that it can account for any weakness that it may have.

I welcome the fact that our government is open to finding ways to improve the system, to improve this bill. To assist this process, I would like to raise some areas for consideration in the future.

For example, experts in the security field have been expressing concerns about what they consider the "triple lock." Simply put, the committee of parliamentarians will be required to go through three different locks every time they wish to obtain any kind of information.

First, clause 8(1)(b) states that the committee of parliamentarians cannot review any subjects related to ongoing operations if the appropriate minister deems the review would be injurious to national security. This concerns me, since many of the issues that impact Canadians the most involve ongoing operations damaging the committee's ability to act as oversight.

Second, clause 14 states that the committee of parliamentarians is not entitled to certain types of information. Some of these areas are reasonable, such as matters related to cabinet confidences or the Witness Protection Program. However, clause 14 also forbids access to information concerning an ongoing investigation that may lead to a criminal prosecution. This becomes problematic because of realities in the field, where almost all modern security investigations are planned in a way that has them continue indefinitely.

Third, clause 16 grants ministers the power to deny any information they deem injurious to national security. This is the broadest of the locks, allowing the minister to have complete discretion over what they consider to be injurious to national security. This this means they can refuse to provide any information.

This is far from the only consideration. Experts in the field have also raised other areas for consideration, such as the vague and incredibly broad mandate of committee, extensive executive control over the committee, and inconsistencies with former rulings about parliamentary privilege.

Honourable senators, Bill C-22 is not a perfect bill. As I mentioned, there are several areas for consideration which I urge the government to examine in greater depth in the future. Bill C-22 is a vital first step toward ensuring oversight for our national security and intelligence system.

Without Bill C-22, there will be no “first” toward ensuring that our most vulnerable Canadians are not victimized as we pursue national security.

The committee is allowed to act as an effective oversight. It will expose many of the issues that are present in our national security and intelligence system. It will also allow for us as parliamentarians to work together with experts in the field, stakeholders, academics and Canadians, and to gain an understanding of the most important issues related to national security and intelligence.

As we learn more, we can seek greater change. Rather than presenting a single solution, Bill C-22 represents the beginning of a dialogue. In fact, we have an incredible opportunity to begin this discussion right here in the Senate, at the committee stage. It presents a perfect opportunity to examine many of the issues I just mentioned.

With all this said, I urge you to join me in supporting this bill, once it has been studied in committee, so that we can begin this conversation and work together to achieve a true balance between national security and the rights of our most vulnerable people.

Honourable senators, for me, oversight is a balance between security and the human rights of people. I would like to remind you of what Thomas Jefferson said: Any country that sacrifices human rights for security ends up with neither.

(On motion of Senator Martin, for Senator McIntyre, debate adjourned.)

[Translation]

**STUDY ON INTERNATIONAL MARKET ACCESS  
PRIORITIES FOR THE CANADIAN AGRICULTURAL  
AND AGRI-FOOD SECTOR**

**SEVENTH REPORT OF AGRICULTURE AND FORESTRY  
COMMITTEE ADOPTED**

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Agriculture and Forestry, entitled *Market Access: Giving Canadian Farmers and Processors the World*, deposited with the Clerk of the Senate on May 9, 2017.

**Hon. Ghislain Maltais** moved the adoption of the report.

He said: Honourable senators, I would like to take this opportunity to say a very special thank you to the deputy chair of the committee, the Honourable Senator Mockler, and to all members of the Standing Senate Committee on Agriculture and Forestry for the remarkable work they have done. Over 500 witnesses appeared before our committee, and our report contains 18 recommendations that farmers felt were consistent with their wishes. I would also like to thank the researchers of the Library of Parliament and our clerk, Kevin Pittman.

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

**Hon. Senators:** Question!

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

(The Senate adjourned until Thursday, May 11, 2017, at 1:30 p.m.)

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