



DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 122

OFFICIAL REPORT
(HANSARD)

Wednesday, May 17, 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 17, 2017

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

Prayers.

SENATORS' STATEMENTS

CHINESE IMMIGRATION ACT

SEVENTIETH ANNIVERSARY OF REPEAL

Hon. Lillian Eva Dyck: Honourable senators, this past Sunday, May 14, 2017, marked the 70th Anniversary of the repeal of the Chinese Immigration Act, commonly known as the Chinese Exclusion Act. In the late 1800s and early 1900s, virtually all of the Chinese in Canada were men; men who left poverty, famine and political unrest in China and who came to Canada as labourers to earn money to support their families back home in China.

The Chinese Exclusion Act was passed in 1923. It banned Chinese immigrants from entering Canada. The wives and children of the Chinese men living and working in Canada were not allowed to join their husbands. My father, Quan Leen Yok, had a wife and two children in China. As a consequence of this act, when the Japanese invaded China, they could not escape to Canada. His wife was killed and his family dispersed. In other words, honourable senators, the effect of the Chinese Exclusion Act was devastating.

My brother and I are my dad's second family — his born-in-Canada Chinese family. Because of the Chinese Exclusion Act, many of the Chinese men from that time period remarried and had second Canadian families, some of whom have been fortunate enough to reconnect with their relatives in China.

This Chinese Exclusion Act, as well as other federal and provincial laws, were aimed specifically at Chinese immigrants as a way to discourage them from emigrating to Canada. My dad came to Canada in 1912. He would have had to pay the \$500 head tax applied only to Chinese immigrants. Ironically, 1912 was also the year in which Saskatchewan passed a law prohibiting Chinese men from employing white women. Despite the racist legislation, he eventually became a successful businessman in Saskatchewan — a cafe owner and operator, who employed as a waitress, Eva McNab, a Cree woman — not a white woman — from the Gordon's reserve. She became his second wife and our mother.

Honourable senators, as we celebrate Canada's one hundred and fiftieth birthday, let us remember the numerous important contributions Chinese Canadians have made to help build this country. As a country which prides itself on its progressive immigration policies and its human rights legislation, we must be vigilant to ensure that we do not backtrack and create subcategories of Canadian citizens who have fewer rights because of their country of origin, as was done in the past. As

we prepare to celebrate the one hundred and fiftieth birthday of Canada, it is important to remember our past so as not to repeat past mistakes.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Edi Smockum and Molly Smockum Owen. They are the guests of the Honourable Senator Boniface.

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

Hon. Senators: Hear, hear!

THE HONOURABLE TONY DEAN

CONGRATULATIONS ON LIEUTENANT GOVERNOR'S MEDAL OF DISTINCTION IN PUBLIC ADMINISTRATION

Hon. Gwen Boniface: Honourable senators, as a leader, a teacher and an adviser, he has taken the reigns on projects from the provincial level to internationally, while acting as a successful mediator in social service, education, major energy and construction sector disputes.

I stand before you today describing a fellow member of our chamber: Senator Tony Dean.

It has been announced recently that Ontario's highest honour for public service, the Lieutenant Governor's Medal of Distinction in Public Administration, has been awarded to Senator Dean for his leadership and contributions in the field of public administration in Ontario.

His vast resume has taken him from professor and mentor at the University of Toronto, to working with the Canadian High Commission, to advising Commonwealth governments, including the London-based Commonwealth Secretariat. Senator Dean served five years as Ontario's Cabinet Secretary and head of public service while advising two provincial premiers of different parties.

Senator Dean has a knack for solving problems and creating win/win situations for those involved in mediations. He has been a leader in the development and implementation of the federal-provincial national health accord, as well as Ontario's federal negotiations for major labour market development and immigration agreements.

No stranger to provincial accolades, Senator Dean will be adding this medal of distinction to his awarded Order of Ontario, received in 2009.

I would ask all of you to help me congratulate Senator Dean here today as the recipient for this year's Lieutenant Governor's Medal of Distinction in Public Administration.

Hon. Senators: Hear, hear!

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 Hilley, Ms. Juliana Pavelka and Mr. Keith Johnston from the Canadian Hemochromatosis Society. They are the guests of the Honourable Senator Wells.

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

Hon. Senators: Hear, hear!

HEREDITARY HEMOCHROMATOSIS

Hon. David M. Wells: Honourable colleagues, I rise today to bring awareness to a deadly disease. Hereditary hemochromatosis is a genetic, metabolic disorder that results in iron overload where the body absorbs and retains too much dietary iron.

Iron is an essential nutrient for the human body. Too little can compromise many important functions and lead to various diseases. Similarly, too much can cause severe damage to organs and tissues, leading to disease and early death. This can affect many organ systems including the liver, pancreas, heart, endocrine glands and joints. It is fatal but easily treated if diagnosed early, before the excess iron causes irreversible damage.

It takes time for iron overload to reach a level that will cause organ damage and failure. Men typically develop the disease between 40 and 60 years of age, and women after menopause. Diet, vitamin pills with iron, and alcohol consumption all can have a negative effect.

One in three-hundred Canadians have hemochromatosis and many are unaware that they have it. I am very fortunate that I know I have it. I was diagnosed almost 20 years ago. I can treat it and can avoid suffering the consequences of deteriorating health. It is vitally important for Canadians, especially those in the higher-risk groups, to be aware of the warning signs and get tested.

The Canadian Hemochromatosis Society is a small but energetic charity that, with limited resources, punches well above its weight in getting the word out about hemochromatosis. They have one of the best websites in the world for basic information about hemochromatosis and its symptoms. They are testing a series of awareness-building radio ads in British Columbia's Lower Mainland, and they are also planning a campaign to help harness the power of social media, and they have developed an app to help sufferers track their iron levels.

• (1410)

They are doing a great job to raise awareness, but more needs to be done. Colleagues, you can do your part by using your communications channels to let your networks know about hemochromatosis and its warning signs. Just by providing a link to the Canadian Hemochromatosis Society website, toomuchiron.ca, and their Facebook page TooMuchIron, you could make a difference in someone's life and that of their family.

Honourable colleagues, I invite you, as well as all parliamentarians, to join me, along with the Canadian Hemochromatosis Society, today between 4:30 p.m. and 6:30 p.m., in room 256-S in Centre Block, for additional information, discussion and light refreshments. Awareness, colleagues, is the only cure.

Hon. Senators: Hear, hear.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Laurie Clement, Laur   Craib-Laurin, Dr. Annie Micucci and Laurence Therrien. They are the guests of the Honourable Senator Griffin.

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

Hon. Senators: Hear, hear!

NATIONAL VISION HEALTH MONTH

Hon. Diane Griffin: Honourable senators, May is national Vision Health Month. It is important to address the pending vision crisis in Canada.

After age 40, the number of cases of vision loss doubles every decade and triples at age 75. Vision loss is devastating to independent aging, doubling the difficulties of daily living and social dependence, tripling the risk of depression and quadrupling the risk of hip fractures.

Vision disorders are a pediatric health problem, as nearly 25 per cent of school-aged children have vision problems. In the next decade, the number of Canadians with vision loss is set to increase by almost 30 per cent. The economic cost could rise to as much as \$30 billion annually by the year 2032.

Seventeen years ago, Canada signed on to the World Health Organization's global vision health plan to reduce vision loss. However, Canada has not taken demonstrable action to achieve this goal, whereas the U.K. and Australia have adopted comprehensive plans to honour their WHO commitments.

Australia's plan is government led, and it's to eliminate avoidable vision loss, raise public awareness, integrate services and to improve access in remote and indigenous communities.

The U.K. vision strategy is to improve eye health services and increase inclusion in society for blind and partially sighted people.

What can we do here to properly address vision health? First, Canada can invest in a national framework for action for the promotion of eye health and prevention of avoidable blindness. Patient-centred eye care should be integral to primary health care and could be achieved through partnerships between governments and stakeholders. The national framework could include funding for public awareness and research. As well, establishing a vision desk at the Public Health Agency of Canada would facilitate better integration of eye care into the health system.

Second, a non-partisan vision caucus could be established to facilitate dialogue to promote vision health. The U.S.A., Australia and the U.K. all have vision caucuses who meet with eye health professionals and other stakeholders. The vision caucus could work to promote and set out strategies for the proposed national framework.

Let's create a future where everyone has the opportunity to fully participate in life. This month, let's work with eye health professionals to bring better vision care to Canadians.

COUNCIL OF ONTARIO UNIVERSITIES

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I would like to invite you to join me in welcoming the Council of Ontario Universities, whose members have come to Parliament Hill today to meet with decision makers and raise awareness about the value of federally funded research in Canada.

The Council of Ontario Universities advances university education, promotes research and ensures student and graduate success at Ontario's 21 publicly funded universities.

University innovation, research and entrepreneurship are critical for the future of our economy. Our universities have made discoveries and broken new intellectual ground that has dramatically changed and enhanced the way that we live.

Thousands of talented researchers are quietly changing the world. University researchers often work behind the scenes, steadily progressing towards ambitious new ideas, new ideas that improve public policies and private practice; advance technology, foster a healthier, happier, more prosperous society; build communities; and, generally, make life more interesting.

Researchers do the work that makes it possible for government, business and community leaders to make smart, informed decisions about a huge range of issues. Today, researchers from universities across the province of Ontario will be hosting their annual reception in collaboration with the Speaker of the House of Commons.

The reception will feature research projects in the areas of clean technology, advanced manufacturing, and infrastructure and transportation.

I encourage colleagues to drop by the Speaker's Lounge, room 216-N, anytime between 3:30 p.m. and 5:30 p.m. today for the Council of Ontario Universities' Research Matters reception. Thank you.

[Translation]

SYMPOSIUM 150

Hon. Serge Joyal: Honourable senators, this year marks the 150th anniversary of Canadian Confederation. It is a memorable event in every respect.

[English]

While considering the types of initiatives the Senate, as the chamber of sober second thought, should take to mark the sesquicentennial, the proposal came to mind that reflecting on Canada's evolution during the last 50 years and how these changes will continue to shape the country's future in the years to come would be meritorious and useful.

Ten themes or subjects were identified, and a selected group of highly reputable Canadians were invited to share their reflections and wisdom. The first theme is, to be sure, the re-emergence of indigenous peoples, with their full status, rights and identities, with guests Phil Fontaine, former Chief of the Assembly of First Nations; and Ellen Gabriel, former President of the Quebec Women's Native Association.

Canada's international personality has expanded over the years. The speakers are former President of CIDA, Huguette Labelle, and the noted diplomat Paul Heinbecker.

[Translation]

Equality of French and English and Canada's concomitant responsibility within la Francophonie have certainly come a long way. The Secretary-General of the Organisation internationale de la Francophonie, the Right Honourable Michaëlle Jean, and former Supreme Court Justice Michel Bastarache will have more to say on that.

The Chief Justice of the Supreme Court, Beverley McLachlin, and legal expert Mark Walters will address the theme of a society built on respect for rights and freedoms.

[English]

Our country has experienced important national tensions during the last 50 years that have challenged its unity. Three former provincial premiers will share their views on our future as a united country: Bob Rae from Ontario, Jean Charest from Quebec, and Gary Doer from Manitoba.

Gender parity emerged as a prevalent issue during this time and continues to challenge us today. The Right Honourable Kim

Campbell and Monique Leroux, former CEO of the Federation Desjardins, are both unique witnesses of those changes.

Sustainable development and the future of the Arctic will be the themes expanded upon by David Suzuki and Rosemarie Kuptana, former Chair of the Inuit Circumpolar Council. Science and culture are linked to the essential creation of knowledge and free expression of identity.

[Translation]

Hubert Reeves, a well-known astrophysicist, Pierre Lassonde, an exemplary patron of arts and culture, and Yves Gingras, a science historian, will take on these themes.

Our quality of life is linked to the strength of an economy that is able to continually adapt.

[English]

David Dodge, former Governor of the Bank of Canada; and Hassan Yussuff, President of the Canadian Labour Congress, will be heard.

Finally, what role did the Senate play in the making of Canada during the last 50 years and how Parliament should adapt to contemporary needs will be led by Professor David Smith of Ryerson University and David Docherty from Alberta.

• (1420)

By welcoming these eminent Canadians from all walks of life in a symposium hosted in this chamber next week, Thursday and Friday, May 25 and 26, under the patronage of our esteemed Speaker with an opening address by the Governor General and the support of the Internal Economy Committee, it will certainly help Canadians to better understand and appreciate our country.

Senator Seidman and I convey to you our enthusiastic invitation and all honourable senators are warmly welcome.

[Translation]

ROUTINE PROCEEDINGS

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:

[Senator Joyal]

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, May 30, 2017 at 2 p.m.

[English]

CANADIAN NATO PARLIAMENTARY ASSOCIATION

SPRING SESSION, MAY 26-30, 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 Canadian NATO Parliamentary Association respecting its participation at the 2016 Spring Session, held in Tirana, Albania, from May 26 to 30, 2016.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

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

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

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to meet at 5:00 p.m. on Tuesday, May 30, 2017, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

QUESTION PERIOD

NATIONAL DEFENCE

DEFENCE POLICY REVIEW

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate.

In April of last year, Minister Sajjan launched public consultations regarding the government's Defence Policy Review. Those consultations ended last July. Since that time, the release of the defence policy has been pushed back repeatedly. It was anticipated last fall and then again before the federal budget, then again before the upcoming NATO leaders meeting on May 24 and 25. We have learned in recent days that the release of the defence policy has been postponed again to June 7 and that the American officials have been briefed on its contents.

Could the government leader please tell us why American officials have been informed of the contents of the updated defence policy before Canadians and before parliamentarians?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and want to assure all senators that the Defence Policy Review will indeed be tabled on June 7. It is not unusual that in advance of a major policy statement like this that there be broad consultations with our allies, with respect to ensuring that there is no surprise in the announcement, but I can assure you the full details will become known after June 7.

Senator Smith: Thank you very much for the response. I have a supplementary question. Could the government leader please tell us if the June 7 date for the release of the defence policy is a sure date, a firm date, or could it be pushed back yet again? What's your sense?

Senator Harder: That is my understanding.

THE SENATE

ROLE OF GOVERNMENT REPRESENTATIVE

Hon. Denise Batters: Honourable senators, my question is for the Leader of the Government in the Senate.

Senator Harder, when I asked you last week about your meetings with Prime Minister Trudeau, Gerry Butts or any member of the PMO you declined to answer, claiming you meet with them as appropriate and that you do not speak to the frequency or the content of your advice.

Last fall, I asked you how many times you attended cabinet committees. You also refused to answer that, saying you attended "as appropriate or as invited," which I guess means zero. I have asked what advice you have given the Prime Minister on government appointments in your previous role as head of the Trudeau government transition team. Your non-answer to that one was it would be "inappropriate for me to comment on advice I give in a different role."

What's inappropriate, Senator Harder, is trying to dodge responsibility for the lack of representation you are giving this chamber in your role as Trudeau government leader in the Senate. You are not a priest taking confession, Senator Harder, or a lawyer bound by solicitor-client privilege. While I could understand being bound by caucus or cabinet confidentiality, you don't go to those so that shouldn't be a problem either. You're running out of excuses, Senator Harder, and we want answers. How many times have you met with Prime Minister Trudeau, Gerry Butts or anyone in the PMO about your discussion paper to destroy the opposition?

Hon. Peter Harder (Government Representative in the Senate): In response to the question, let me simply reiterate that my private conversations with the Prime Minister or any other official in government are indeed that — private.

Senator Batters: During the last election campaign, Justin Trudeau said:

We will make information more accessible by requiring transparency to be a fundamental principle across the federal government.

How is that working for you, Senator Harder? Sounds like the two of you could use a meeting on that.

Senator Harder: I have no comment.

VETERANS AFFAIRS

VETERANS INDEPENDENCE PROGRAM

Hon. Elizabeth Hubley (Deputy Leader of the Senate Liberals): Honourable senators, my question is to the Leader of the Government in the Senate.

When the Minister of Veterans Affairs was here last month, I asked him about the eligibility criteria for the Veterans Independence Program and its benefits for surviving spouses of veterans. There is an inequity in these criteria that the Veterans Affairs Ombudsman has been asking to be fixed since 2010. I provided advance warning to the minister so that he would be able to address my very specific question.

At the end of his reply, the minister stated:

With regard to your question, what I will say is that as long as a veteran was in receipt of a disability pension or the War Veterans' Allowance, a surviving spouse can apply for both housekeeping and grounds maintenance if they are considered low-income and demonstrate the need of these services in order to remain independent in the home.

I was speaking to the ombudsman later and he told me that the problem has not been corrected. Would you please ask when Veterans Affairs will truly be fixing the inequity?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question and for her kindness in giving me advance notice of the question, which allows me to reiterate the priority this minister places on veterans and their families, and the utmost importance he and his department attach to this subject.

As honourable senators will know, the minister and the government are providing funding to eligible veterans and their families so they can access home and community care and support services to meet physical, mental and social needs.

With respect to the specific question regarding the Veterans Independence Program, as the minister stated at the time, it is amongst one of the most popular and important programs of the department. He has launched a review of the veterans' health care

regulations as they pertain to the Veterans Independence Program, and he has asked his officials to complete that study and report back with relevant findings in the near future.

This is an issue that the minister takes very seriously and one that we look forward to reporting to you and others on an ongoing basis.

PUBLIC SAFETY

CORRECTIONAL SERVICE CANADA—CARE OF PRISONERS—INQUIRY PROCESS

Hon. Joan Fraser: Honourable senators, I'm going to crave your indulgence for a slightly longer than usual preamble to this question, because I think it's important for colleagues who are unaware of this case to understand something about its details.

My question is going to concern the death of Matthew Hines, who was 33 years old when, two years ago this month, he died in custody at Dorchester Penitentiary in New Brunswick.

According to the final post-mortem report in New Brunswick from the coroner's office, the cause of his death "appears to be acute asphyxia due to extensive pulmonary edema following administration of pepper spray."

• (1430)

Well might the coroner say that.

It began shortly after 10 p.m., on the May 26, two years ago, when Mr. Hines was dilatory — not aggressive, not violent, but dilatory — in returning to his cell for the night.

Officers spoke to him; guards spoke to him. He was taken down onto the floor. His head was cut, and he was bleeding. Things went from bad to worse.

Mr. Hines was given pepper spray at least six times, directly in the face, within a space of 10 minutes. The Correctional Investigator has found that this administration of pepper spray was, to put it mildly, unnecessary. For example, the first administration of pepper spray came at a time when, for the second time, Mr. Hines was down on the ground, prone, facedown, handcuffed to the rear, restrained by and in the control of five officers, but still he got a blast of pepper spray straight into his face. And it went on.

He was frog-marched across the yard toward the segregation unit backwards, still handcuffed to the rear, without any shoes. By this time he's frightened. He's pleading for help. He was placed in the decontamination shower. Actually, he fell in backwards. His T-shirt had been pulled up over his head so that, according to the Correctional Investigator, when the shower was turned on, it must have felt remarkably like waterboarding.

He was pleading for help, frightened, crying. They turned the water off; then they turned it on again. Eventually, he was dragged out of the shower by his feet, motionless, unresponsive.

By this time, he was having seizures. He had at least six seizures within half an hour. Eventually an ambulance was called, but too late. He died before midnight.

What happened then? Well, within the Correctional Service of Canada not much. There was a board of investigation, which is an internal CSC mechanism, which found that there had been 21 serious breaches of policy, but it made only four recommendations. Two of them were about learning and training. One was that Dorchester Penitentiary consider evaluating the safety features of its institutional stretchers — he was on a stretcher when he was put into an ambulance — and that it consider auditing its pepper spray procedures.

The Correctional Investigator finds that:

... the manner by which CSC investigates and reports on deaths in custody. . . is inherently flawed.

He said:

Given that CSC investigates itself largely on the basis of compliance with policy and procedure rather than accountability, most Boards of Investigation do not issue recommendations of national significance. Consequently, at the site level, the Office sees the same mistakes repeated over and over again.

He says that the CSC's line of inquiry is:

... self-serving, unreflective and circular. . . .

And he observes:

... an investigative process that does not concern itself with accountability or prevention will invariably fail from repeated, and potentially, catastrophic failures in which the staff response was inadequate, flawed or inappropriate.

The Hon. the Speaker: Senator Fraser, I know this background is very important to your question, but would you please get to your question.

Senator Fraser: I did plead for your indulgence, colleagues.

The question is: Given this inherently flawed, unaccountable process, what has the government done to ensure that the Correctional Service will, in fact, establish an inquiry process that is accountable?

Hon. Peter Harder (Government Representative in the Senate): I want to thank the honourable senator for her question and, indeed, for the fulsome preparation for the question because it is important for us all to hear the tragedy in its fullness to understand the severity with which the Correctional Investigator has issued his report and the seriousness with which the government is responding.

Clearly, the government, the minister responsible, has not only thanked the Correctional Investigator for his thorough investigation but has also ensured that Correctional Service

Canada has accepted the recommendation put forward in the report for their implementation.

While these important steps have been taken, in addition, I want to report that Correctional Service Canada is cooperating fully with the ongoing investigation by the RCMP. As well, the government is supportive of a public inquest should the New Brunswick Coroner's Office initiate one.

This is a serious matter, and Canadians need to be assured that the detention facilities are humanely administered and that appropriate rules and procedures are in place. I would be happy to report, from time to time, as this process works its way through.

Senator Fraser: I would inform colleagues that there were at times as many as 13 officers in the room with Mr. Hines while he was being mistreated. As a result of a staff investigation, two officers received a reprimand letter. The correctional manager received a reprimand letter and a one-day loss of pay. Nobody else appears to have faced any discipline at all. In particular, so far as the Correctional Investigator knows, no senior manager has ever been disciplined or held to account for the deficiencies that contributed to Mr. Hines's death.

So the question is: What on earth can the government do to ensure that a system is established within Correctional Service Canada whereby accountability includes punishment?

Senator Harder: I want to assure the honourable senator that the Government of Canada takes seriously the findings of the report, and that there are steps underway administratively to ensure that fuller accountability is achieved. I will note to the minister the question being posed and the concerns expressed by you, and indeed of all senators.

[Translation]

FAMILIES, CHILDREN AND SOCIAL DEVELOPMENT

SUPPORT FOR CHILDREN'S LITERACY

Hon. Renée Dupuis: Honourable senators, my question is for the Leader of the Government in the Senate.

Mr. Leader, can you find out from Jean-Yves Duclos, Minister of Families, Children and Social Development, if he would agree to provide every baby born in Canada or who becomes a member of our society, whether it is adopted or a refugee, and regardless of its status upon arriving in Canada, with a French or English illustrated book by a Canadian author as a gift from the government for Canada's one hundred and fiftieth anniversary and beyond? There are many good reasons to do this, chief among them promoting literacy.

[English]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her suggestion and would be happy to pass it on to the appropriate minister that she's identified and report back.

DEMOCRATIC INSTITUTIONS

ELECTORAL REFORM

Hon. David Tkachuk: Senator Harder, on February 9 of this year, I asked you about the Liberal's party's electoral reform platform, and you assured me that you would give me a response. You still haven't provided that more than three months later.

On March 9, I asked you about the Diefenbaker Human Rights Award. You said you would enquire and respond to me. Still no response two months later.

On March 29, I asked you about the Prime Minister's vacation on the Aga Khan's private island. You said you would seek an appropriate response. Still no response or otherwise. I asked you again about the Prime Minister's vacations on March 30, April 5 and April 6. On May 31, I asked you about the breakfast hosted by Minister Monsef.

• (1440)

I still have no answers to any of my questions, despite your promises time and time again to provide answers.

Senator Harder, I'm just asking you, when am I going to get any answers to the questions that I'm asking you?

Hon. Peter Harder (Government Representative in the Senate): At the earliest opportunity possible.

Senator Tkachuk: We have a Prime Minister in the other place who gives no answers to questions. We have a leader here who is giving me a bit of an off-hand answer to a number of very serious questions. Surely three months is plenty of time to deliver an answer to a colleague who is asking you a question about something that I think is important to the government and to senators here.

Senator Harder: Honourable senators, I take all questions from all senators seriously, and where a delayed answer is appropriate, I seek to ensure there's an expedited response.

I hope that senators recognize, and I know some do, that the response times have significantly improved. I'd be happy to look at the response times and track the questions that the honourable senator has referenced, but I make every effort to expedite responses to questions from all senators.

FOREIGN AFFAIRS

VIETNAM—HUMAN RIGHTS—PRISONERS OF CONSCIENCE

Hon. Thanh Hai Ngo: My question is for the Leader of the Government in the Senate.

During Question Period yesterday, Minister Champagne discussed his upcoming Asia tour. The minister will be visiting Singapore, South Korea, Japan and Vietnam this month in order

to engage with the Asia-Pacific region. Minister Champagne has said that increasing trade with Asia is a top priority, and he will be in Vietnam to promote Canada's progressive approach to trade.

Canada trades with a conscience. Trade brings prosperity to all, and it is a valuable tool to promote our norms and values abroad. Promoting freedom, democracy and human rights around the world must not be sidelined in favour of more lucrative trading opportunities.

Human rights are also a powerful driver for economic prosperity. Vietnam is well-known for its poor track record of human rights and its draconian criminal code designed to punish dissent. The Communist Party of Vietnam maintains its rule through fear. Vietnam executed 429 activists between August 2013 and June 2016, making it third in the world for state executions, behind China and Iran.

How does the minister and his government plan to square concerns over human rights in Vietnam with a desire to increase trade?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. As the minister so eloquently described yesterday, Canada's engagement with Asia bilaterally and multilaterally is a high priority for the government. Senators will know that Vietnam was a key component of the Trans-Pacific Partnership. In the ASEAN and other fora that Canada seeks economic relationships with, Vietnam and other countries of Asia are very important.

With respect to the desire and commitment of the government to engage all of these countries, not just economically but in the broad areas of human rights, and political and security issues, the government believes that it can do both. By engaging countries and working collectively and multilaterally to ensure that economic standards are raised but also that political, security and human rights issues are more broadly addressed, we have a better chance of influencing behaviour.

Senator Ngo: I have a supplementary question.

Activists and independent journalists who criticize the country's foreign policy, for example, are often harassed and arrested by the Vietnamese regime. Protesters are violently suppressed. Many of the victims in Vietnam's justice system are prisoners of conscience, guilty only for speaking out against the regime. There are currently 130 such prisoners in Vietnam.

One of these prisoners is Nguyen Van Dai, who was arrested in December 2015 and charged with conducting anti-state "propaganda." Mr. Dai is an ardent supporter of human rights in Vietnam and has been in prison for four years. Despite international pressure for his release, he remains in custody.

What will the Canadian government do to help Vietnamese prisoners of conscience like Mr. Dai?

Senator Harder: I thank the honourable senator for his question and the seriousness with which he and other senators take issues of human rights in Vietnam and elsewhere. I want to ensure all

honourable senators that the Government of Canada does that as well. It is not unusual — indeed, it's common — for the Government of Canada to raise in an appropriate forum our concerns with regard to human rights in Vietnam and elsewhere. They will continue to be raised by the Government of Canada.

[Translation]

FINANCE

PARLIAMENTARY BUDGET OFFICER— PARLIAMENTARY PRIVILEGE

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. Last week, I questioned you about the Parliamentary Budget Officer's mandate, which might be altered by Bill C-44.

Today, I would like to revisit another change that Bill C-44 will make to the Parliamentary Budget Officer's mandate. The bill indicates that committees, members, or senators can request the Parliamentary Budget Officer to undertake studies. However, the new version of the act that they want us to pass clearly states that if an election is called before the Parliamentary Budget Officer has finished his studies or submitted his reports to said parliamentarians, he must discontinue work on these requests.

During a federal election, there is nothing to stop senators from continuing their research and their studies. Don't you think that this measure will deprive senators of the services they are entitled to and will breach their parliamentary privilege?

[English]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. As to whether the proposal made by the Government of Canada in the budget poses a question of privilege, I'll leave that for others to argue.

Let me simply say that it is the view of the Government of Canada that public servants, as officers of the PBO would be, ought not advertently or inadvertently contribute to the debate during a campaign with publication of materials that could be construed to the advantage of one party or another.

[Translation]

Senator Carignan: If that is the government's intent, could the Leader of the Government explain, why, during an election campaign, requests could be made by political parties to evaluate another political party's platform?

[English]

Senator Harder: I thank the senator for his supplementary. Let me repeat that it is the view of the Government of Canada that institutions such as the Parliamentary Budget Office ought not become a political football in terms of its reports and its findings during the course of a campaign. This is a matter that is being

pre-studied in this chamber and debated in the other chamber. I look forward to an opportunity to debate the bill and this particular item when the bill arrives here.

[Translation]

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

SATELLITE LICENSING FRAMEWORK

Hon. Dennis Glen Patterson: Senator Harder, on March 7, 2017, I asked Minister Freeland about a slow bureaucratic process that is putting the future of the Inuvik ground station in the Northwest Territories at risk. Minister Freeland agreed that “this is a fast-moving sector where a lot of innovation is happening . . . there’s a real opportunity for Canada to play a leading role.”

We have attracted interest in this world-class facility from leading commercial space agencies in Norway, U.S.A. and Germany, as well as the European Space Agency. However, some of these entities initiated the licensing process for Inuvik in June 2016. Eleven months later and over two months after my exchange with Minister Freeland, these entities remain frustrated and the town of Inuvik stands to lose an important international investment and trade opportunity, which should be replacing the opportunities lost with the Arctic oil and gas moratorium.

• (1450)

Minister Champagne was mandated by the Prime Minister to position Canada as a top destination for global investment and promote our economic brand and to “improve supports to . . . Canadian communities looking to attract investments.”

I wish to ask him, through you, whether he would pursue this longstanding issue with his cabinet colleagues and, as his mandate states, “help reduce administrative burdens and complexity for investors”?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question and his advocacy on this issue. I would be happy to speak with the minister and seek a response.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate would address the items in the following order: third reading of Bill C-37, second reading of Bill C-22, and third reading of Bill S-5, followed by all remaining items in the order that they appear on the Order Paper.

BILL TO AMEND THE PUBLIC SERVICE LABOUR RELATIONS ACT, THE PUBLIC SERVICE LABOUR RELATIONS AND EMPLOYMENT BOARD ACT AND OTHER ACTS AND TO PROVIDE FOR CERTAIN OTHER MEASURES

MESSAGE FROM COMMONS—AMENDMENT AND DISAGREEMENT WITH CERTAIN SENATE AMENDMENTS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons, which reads as follows:

Tuesday, May 16, 2017

ORDERED.— That a message be sent to the Senate to acquaint their Honours that, in relation to Bill C-7, An Act to amend the Public Service Labour Relations Act, the Public Service Labour Relations and Employment Board Act and other Acts and to provide for certain other measures, the House:

proposes that amendment 1 be amended by replacing all the words after the word “construed” with the following:

“as affecting the right or authority of the Commissioner of the Royal Canadian Mounted Police under the Royal Canadian Mounted Police Act to ensure that police operations are effective.”;

respectfully disagrees with amendments 2 and 4(a) because the government has introduced legislation to repeal secret ballot provisions for other public servants in order to achieve balance in workplace relations, further proof of the government’s intention to maintain a good-faith relationship with bargaining agents, including any future bargaining agents for RCMP members and reservists;

respectfully disagrees with amendments 3, 6, and 7 because, while agreeing with the removal of restrictions specific to the RCMP in order to allow meaningful discussions in good faith on topics of importance to RCMP members and reservists, such as harassment, removing restrictions on collective bargaining that have applied to the rest of the public service would upset processes that have worked for over 40 years;

proposes that amendment 4(b) be amended to read as follows:

on page 19, in the English version, add after the words “implementation of the term or condition;” the word “or”;

proposes that amendment 4(c) be amended to read as follows:

on page 20,

(i) replace line 7 with the following: “sation Act.”;

(ii) delete lines 8 to 19;

proposes that amendment 4(d) be amended to read as follows:

on page 21, replace lines 1 to 32 with the following:

“(a) doing so would require the enactment or amendment of any legislation by Parliament, except for the purpose of appropriating money required for the implementation of the term or condition;

(b) the term or condition is one that has been or may be established under the Royal Canadian Mounted Police Superannuation Act, the Royal Canadian Mounted Police Pension Continuation Act, the Public Service Employment Act, the Public Service Superannuation Act or the Government Employees Compensation Act; or

(c) doing so would affect either of the following:

(i) the organization of the public service, the categories of members as defined in subsection 2(1) of the Royal Canadian Mounted Police Act or the assignment of duties to, and the classification of, positions and persons employed in the public service, or

(ii) the right or authority of the Commissioner of the Royal Canadian Mounted Police under the Royal Canadian Mounted Police Act to ensure that police operations are effective.”;

respectfully disagrees with amendment 4(e), 5, 8, 9, and 10 because they would result in two different grievance processes applying to RCMP members, because the specialized grievance and appeal processes established under the Royal Canadian Mounted Police Act function well, and because allowing RCMP members to file identical grievances under two acts could undermine the Commissioner’s ability to ensure effective police operations.

ATTEST

MARC BOSC

The Acting Clerk of the House of Commons

Honourable senators, when shall this message be taken into consideration?

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

[The Hon. the Speaker]

[English]

CONTROLLED DRUGS AND SUBSTANCES BILL

BILL TO AMEND—MESSAGE FROM COMMONS—
AMENDMENT FROM COMMONS
CONCURRED IN

The Senate proceeded to consideration of the message from the House of Commons concerning Bill C-37, An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts:

Monday, May 15, 2017

ORDERED,— That a Message be sent to the Senate to acquaint Their Honours that the House:

agrees with amendment 1(a) made by the Senate to Bill C-37, An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts;

proposes that amendment 1(b) be amended by deleting section 56.2; by renumbering subsection 56.3(1) as section 56.2; by replacing the words “shall offer”, with the words “may offer” and by deleting subsection 56.3(2).

Hon. Peter Harder (Government Representative in the Senate):
Honourable senators, I move:

That the Senate concur in the amendment made by the House of Commons to its amendment 1(b) to Bill C-37, An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts; and

That a message be sent to the House of Commons to acquaint that house accordingly.

Honourable senators, I am pleased to rise and speak to the message received from the other place regarding proposed Senate amendments to Bill C-37, An Act to amend the Controlled Drugs and Substances Act, and to make related amendments to other Acts.

As you well know, this bill will help Canada address the ongoing opioid crisis, as well as problematic substance use more generally, with the objective of reducing the harms associated with drug and substance use in Canada.

This legislation is urgent. The number of opioid-related overdoses and deaths in our country continues to tragically climb, leading to a devastating impact on individuals, families and communities. Last year there were 931 lives lost as a result of illicit drug overdoses in British Columbia alone, and 343 lives lost in Alberta due to fentanyl use.

Unfortunately, the numbers have not decreased this year, and in the first three months of 2017 we have already noticed close to 350 deaths due to illicit drug overdoses in British Columbia alone.

Tragically, looking forward, we can expect over 2,000 deaths in 2017. That is 2,000 families that will mourn the loss of a loved one.

We have to do everything we can to turn this crisis around.

In conducting sober second thought, this chamber decided to adopt three amendments proposed by the Standing Senate Committee on Legal and Constitutional Affairs.

In the message that we received yesterday, the majority of the other place has agreed with one amendment, disagreed with a second, and has altered the language in the third.

In sending this message, I can signal that the government regards the changes it has accepted as complementary improvements to Bill C-37, consistent with the general thrust of the legislation.

The first amendment, which has been returned to us intact, specifies that should the Minister of Health choose to post a notice to seek public input regarding an application, the public should have a minimum of 45 days to provide feedback.

This amendment ensures that community members are given a reasonable amount of time to provide their views on an application for a supervised consumption site should further consultation be deemed necessary by the Minister of Health.

I want to congratulate Senator McIntyre for bringing forward this amendment at committee and for his successful and thoughtful improvement of this bill.

The second amendment adopted by the Senate would have given the Minister of Health the authority to establish citizen advisory committees for supervised consumption sites.

Though I thank Senator Boisvenu for his valuable contribution to the debate, the Government did not support this amendment.

• (1500)

I would like to make it clear that public consultations and expressions of both community support and opposition will always be considered in applications for sites, as this was set out as one of the five factors by the Supreme Court of Canada.

The Government did not accept this amendment because such a citizen advisory committee would pose a significant burden for applicants that could prevent a supervised consumption site from being located where the public health need exists.

The third amendment adopted by the Senate would have required supervised consumption sites to offer an alternative, legal pharmaceutical therapy to clients before they consume illegal drugs at the site.

The Government has chosen to alter this language, while retaining a portion of the amended version. Instead of saying that:

... a person who is responsible for the direct supervision, at a supervised consumption site, of the consumption of

controlled substances shall offer a person using the site alternative pharmaceutical therapy . . .

The Government has changed the words “shall” to “may.”

I want to thank Senator White for bringing forward this amendment, and for his tireless work on this issue, including his contributions to banning fentanyl precursors, and in collaboration with Senator Sinclair, his insightful amendments to Bill C-224, the Good Samaritan Drug Overdose Act, which is now law.

I want to make it clear that the Government of Canada fully supports access to legal treatment options for people who are living with addictions.

As Minister Philpott told this Chamber on March 1 during Question Period:

I would say that there would be nothing stopping people in those jurisdictions from making sure that these sites are not just supervised consumption sites, but that they are places where, when people are ready to be introduced to treatment, when they need to have their social issues addressed, when they need medication assisted therapy to help them stay alive and prevent them from going out into the streets to find ways, including criminal activities, to support their dependence on substances, they are given clean substances in a safe facility under the direction of health-care providers. This will save lives and it is how we've seen internationally that other jurisdictions have responded to a similar crisis.

So this amendment — as modified in the other place — is an important statement to other jurisdictions emphasizing that their authority to provide legal, pharmaceutical therapies at supervised consumption sites is being endorsed by this Parliament.

However, while the federal government can help remove barriers to treatment through regulated changes and support for evidence-based practices, it is up to the provinces to make health care decisions that meet the needs of their populations.

With the word “shall” we may have found ourselves in an area of provincial jurisdiction and subject to a constitutional challenge.

With the word “shall,” we could also create section 7 Charter issues by erecting significant barriers to existing or prospective supervised consumption sites, imperiling access by vulnerable populations.

So instead, with the word “may,” what we have with this language is a compromise between a treatment ideal, and the constitutional limits of the federal government.

[Translation]

In short, we have reached a middle ground with these three amendments: one was accepted, one was rejected, and the other was revised. The result represents both improvement and compromise, a wise, just, and entirely Canadian result.

[English]

Honourable senators, I think this process has admirably shown the other place and all Canadians that this Chamber's complementary role in the Parliament of Canada is alive and well.

In closing, I would like to pay particular tribute to Senators Campbell, White, McIntyre and Boisvenu, and the Standing Committee on Legal and Constitutional Affairs. Their passionate work on this legislation has once again shown to Canadians, and to the other place, the value of Canada's upper chamber.

Let us continue do so by concurring with this motion and, hopefully, we can get this legislation made into law as quickly as possible. Thank you.

Hon. Yonah Martin (Deputy Leader of the Opposition): May I ask one question of Senator Harder? There may be two, but one for now.

Senator, first of all, I want to also add my comments on the good work of the senators who sponsored and also critiqued the bill, the committee members and our chamber, doing our due diligence.

I listened carefully to the message from the House of Commons yesterday, as well as your speech now, and as someone who has seen the positive effects of safe injection sites — we're calling them now safe consumption sites in my city of Vancouver — but also the kind of impact that they can have on a community, I guess I'm still struggling with the fact that we're not building or establishing a structure or a place that once it's done, there can be all sorts of effects and unintended consequences.

What we're also inviting to these sites would potentially be criminal activity, the presence of drugs and other paraphernalia and just the concerns that would come into the community.

I'm quite concerned that the amendments to ensure greater public safety were rejected. So I'm appealing to you, Senator Harder, on this message and the vote that we're going to be taking, for any additional assistance in terms of the process that will absolutely be thorough to ensure that the community that will be affected is being heard fairly. There's a health need and I understand we have to address the need and therefore I do see the urgency there and I feel it, but I'm also thinking about the community and the balancing act that we must do to ensure that the community will also be heard very thoroughly.

That process, which for me, at this point, before the question, I'm still struggling with it, because people will hear about it in other neighbourhoods, but when it's their own neighbourhood, they see it differently. I want to have that reassurance from you, senator.

Senator Harder: Thank you, senator, for your question. Let me reassure you and all senators that in the debate in the other place and, indeed in the minister's comments, both in the debate in the other place and answering questions here, the minister is acutely aware of the requirements of the Supreme Court, of the medical requirements of the safe consumption sites and the need to ensure that they're up and running effectively.

[Senator Harder]

By accepting Senator McIntyre's amendment, there is a process of consultation that is available to the minister, and I want to assure the honourable senator and all senators that this Minister of Health takes her responsibilities very seriously and is very anxious to implement this bill when it becomes law.

Hon. Larry W. Campbell: Honourable senators, I rise to speak to Bill C-37 as amended by the other place. Quite frankly, in all of them, the only amendment that concerns me is the change of the word "shall" to "may" with regard to opioid prescriptions at supervised consumption sites.

I share the concerns of my colleagues with regard to supervised consumption sites going into neighbourhoods, but I can assure you two things: the Downtown Eastside did not become a haven for drugs because of a supervised injection site. If you don't have drugs in your neighbourhood or a significant mass of drug users in your neighbourhood, there won't be a consumption site put there, because it makes no sense. It's like taking money and throwing it out the window. But I certainly share the concerns of citizens who are afraid of this. It's something we have to address from a communications point of view to point out exactly what's going on.

I want to be clear that I think that Bill C-37 is a quantum leap forward with regard to drug treatment, even with the changes and even with not getting all the amendments. Moving to less red tape, closing loopholes that allow drugs to enter Canada and banning pill presses are all part of the solution to this drug crisis.

I especially want to make it clear that this is not a criminal issue. Successive governments for probably close to the last century have made this a criminal issue and waged war on what is essentially a disease — a medical condition. As a result, we see the market for opioids increasing as the supply increases. Right now it's fentanyl. Make no mistake; in time, another poison will take its place in the market. I've seen it throughout the years with heroin, crack, cocaine and all kinds of chemicals that are put together in a bathtub.

• (1510)

My single biggest complaint, and why I supported the "shall offer" amendment, is the lack of response from provincial governments. Health care is their responsibility. This federal Minister of Health has time and time again changed regulations to allow for opioids as treatment. She has held press conferences, appeared at events and clearly demonstrated her resolve to deal with this issue. The word "shall" would put the onus on provincial authorities to use opioids as one form of harm reduction and treatment and as a substitute for the poison that's being sold on the street.

Interestingly enough, some of my friends in the drug policy area, who I've worked with closely for probably 50 years, see the use of the word "shall" as a barrier to treatment. This is, in my opinion, nonsense. If I'm an addict and I come into a clinic and somebody says to me, "We would like to supply you with an opioid" after talking to them about their medical condition, which may be mental illness, abuse, any number of things, and then say to them, "I'd like you to use this opioid, and don't use that," I'm trying to think of the addicts who would say, "No, I'm not going to do that." It's no barrier. It's an opportunity to move

forward, perhaps get into treatment, not have to work in the sex trade, and not have to break into cars or terrorize other addicts.

We all worry about us. They're not going to bother us. They bother other people who are in the same condition, who are suffering from mental illness, who have no place to live. Being offered clean opioid treatment when needed is hardly a barrier but rather an enlightened way to keep people alive and to help them with long-term treatment.

While people are dying, the provincial governments are locked in dynamic inaction. With the word "shall" in the amendment, for the first time ever, the Canadian Police Association supported supervised injection sites. This is huge. This is, quite frankly, something I never expected. I don't know what the reaction is going to be from them now that we've changed it to "may" and allow provincial governments to again slither away from their responsibilities.

I don't want to go into the number of people who have died, but it's up 50 per cent from last year; and last year was over 900, and that's in British Columbia. Two people a day are dying in Ontario. Four people a day are dying in British Columbia. We have no idea what's happening in some jurisdictions because they don't have the capability of collecting the statistics, so it's only a guess.

A famous poet once said, "You can't always get what you want." At least I think it was a poet.

Senator Smith: Mick Jagger.

Senator Campbell: While I'm extremely disappointed with one aspect of the bill, I'm hopeful that with time this too shall change. I'm hoping for a time when addicts will be treated with the same dignity that other health care users expect. For this reason, I will be voting to accept this bill as sent to us by the other place.

Hon. David M. Wells: I have a question for Senator Campbell, if he will take it.

Senator Campbell: Sure.

Senator Wells: When we talk about this, a lot of times we're talking about Vancouver. I don't know the circumstances, but from listening to our colleagues here when we do talk about it, it's essentially Vancouver and the Lower Mainland.

At committee, Dr. Mark Ujjainwalla, Medical Director of Recovery Ottawa, who was a witness, said:

In essence, the government, in its lack of knowledge and insight, has condemned the unfortunate victims of this disease not to be treated properly and get healthy. Instead, the term "harm reduction" became the government's answer to the treatment of addiction, especially opiate dependency. In other words, they were stating that these poor, victimized, hopeless, untreatable people do not deserve appropriate treatment.

We all know the difference between "may" and "shall." With the weakening of the wording to "may," do you have any

comment on how this plays into the necessity of looking at treatment versus reducing harm or harm reduction?

Senator Campbell: I don't necessarily agree with the witness. We lost harm reduction for 10 years under the previous government, but we only lost it because harm reduction was taken out of the policy. It didn't change what was happening on the street. Harm reduction was continuing on.

To me, a consumption site is not a silver bullet. It is one tool in the chest that we can use that ranges from "just say no" to heroin maintenance. It's a continuum of care that's familiar to anybody in the medical profession.

Saying "may" simply allows the provincial government not to get involved in this area of health care. It's going to be expensive. There's no question about it. Maybe you need to make a decision whether you build a \$58 million bridge or you do this.

I apologize sincerely for being Vancouver-centric because it's not Vancouver-centric. In fact, many smaller cities and towns throughout the country have a much higher per capita death rate from drugs. One of the things I'm trying to do is organize it so that we have statistics from medical examiners and coroners across Canada on a timely basis so that we can compare them.

At the end of the day, we will be moving to prescription opioids. We will be doing that. With this, it probably would have happened sooner. I don't know if that answers your question.

I just think at some point, when do we give a damn about people dying? What could possibly be more important? That's my bottom line. That's why I want to force and push the provincial governments. We pushed the federal government and we've seen action. We need to start pushing the provincial governments.

Hon. Serge Joyal: Would the honourable senator accept another question?

Senator Campbell: Absolutely.

Senator Joyal: Honourable senators, in law, there are three verbs we can use in relation to the definition of an obligation. We can use "may," which is a potentiality. We're not sure if it will happen. We can use "shall," which is translated in the present tense, and it is an active offer. Or we can use "must," which is then an obligation.

What the government is doing, essentially, in selecting the least common denominator, the one that is just a potentiality, is not meeting the objective of the amendment introduced by Senator White, which is to prevent the death of somebody by offering an alternative opioid.

It seems to me that the argument that we are compelling the province to do something, which some of them might not be willing to do, would be sustained by the use of the phrase "must offer," but by maintaining "shall," we're not creating an obligation of the same compelling nature than if we used "must."

I know that to some senators it seems I'm giving a grammar lecture, but in terms of law — you know very well because you have been in court on those issues — there's a clear distinction on

the obligation that is put on the shoulders of somebody who “must” do something. And if you don’t do it, then you’re responsible for the end result.

• (1520)

But when you say “shall,” it means that the offer can be either accepted or refused, so you still maintain the choice of the person. Again, how many angels can dance on the head of a pin? But in relation to the legal obligation, the way I have interpreted the speech made by Senator White is, in my opinion, much better served by the word “shall” than any of the other two words that I just proposed to you as a question.

Senator Campbell: Well, I’d like to make an amendment now. I never thought of that. I didn’t know that, and I have to tell you that, in future, I’ll go for the “must” to the end of it.

That being said, at the end of the day, the issue, as I understand it, first of all, was that there was a worry about, as always, constitutionality. Second, would we be seen as entering into the provinces’ area, again constitutionally but, more visibly, publicly. I think that we’ll get to that point. I appreciate you giving me the three differences because it is important, and I think that it’s something that I’ll tuck away in the back of my mind.

I have to correct one thing, though. You said that, when they come in, by taking opioids, this would prevent death. No. Nobody has ever died in a supervised injection site. You don’t actually prevent death. What you do is start the person on the road to stability and to some sort of treatment, whatever that may be. But we’ve never had a death, some 3 million injections. We’ve never had a death.

[Translation]

Hon. Paul E. McIntyre: Honourable senators, I wish to speak today in the place of Senator Dagenais, a critic of Bill C-37. Unfortunately, Senator Dagenais is out of the country, but he thought it best that someone speak to this bill today.

[English]

The message from the House of Commons proposes changes to the text of Bill C-37, which the Senate passed on May 4. This bill had several flaws from a medical point of view and with regard to the respect of the public and the communities. We have tried, as best as we could, to fix these shortcomings through our amendments.

I am pleased that my amendment, as noted by Senator Harder, which guarantees a consultation period of 45 days minimum, was passed here and in the House of Commons. It represented a compromise and shows that it is indeed possible to engage in a constructive dialogue between the Senate and the House of Commons, a dialogue which transcends political affiliation.

[Translation]

Senator Boisvenu’s proposed amendment would have helped to enhance another kind of dialogue, that between citizens and the minister regarding injection sites once they are in operation. Unfortunately, the minister rejected this approach.

[Senator Joyal]

[English]

Finally, the minister diluted the amendment proposed by Senator White, which directed injection sites to offer an alternative to users of dangerous drugs. More specifically, the amendment would have enabled people using drugs such as fentanyl or carfentanil to be given the option of receiving pharmaceutical treatment instead of injecting poison into their bodies. By replacing the word “shall” with the word “may,” the minister effectively closed the door to a more modern approach.

In addition, this modern approach was discussed at the *Sommet francophone sur la réduction des méfaits liés aux drogues*, which was held a few days ago in Montreal. Experts discussed the option consisting of prescribing drugs to help with the process of detoxification. In short, experts suggest prescribing transition drugs.

Under Senator White’s amendment, a person with an addiction would have been offered a pharmaceutical replacement by a medical practitioner, not a drug dealer. That addicted person would not have had to commit a crime or multiple crimes to obtain such a substance.

To use the words of Senator White:

Addicts would not have had to worry about the potential of an overdose death as a result of using whatever poison he purchased from a dealer.

That being said, we must act because time is of the essence.

In closing, I would like to thank my colleagues on the committee who took part in a constructive dialogue on this bill. I invite you all to act and thus decide the future of this bill.

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, the time has come to adopt this bill. Time will tell us if the minister was right to refuse to open the door to a more modern approach that gives users of these sites a choice between poison and therapy.

This being said, we must remember that lives are at stake. Therefore, we must now vote on this bill and encourage the minister to demonstrate to us that she can address this crisis with these measures.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Harder, seconded by the Honourable Senator Bellemare, that the Senate concur with the amendments made by the House of Commons in its amendment 1(b) to Bill C-37, An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts; and that a message be sent to the House of Commons to acquaint that house accordingly.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

Some Hon. Senators: On division.

The Hon. the Speaker: On division?

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the “yeas” have it.

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on the length of time that the bells will ring?

Senator Plett: 15 minutes.

The Hon. the Speaker: Fifteen minutes. The vote will take place at 3:41. Call in the senators.

• (1540)

The Hon. the Speaker: Honourable senators, I understand that there have been consultations, and that there is agreement to cancel this standing vote.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: I will therefore call a voice vote on the motion.

It was moved by the Honourable Senator Harder, seconded by the Honourable Senator Bellemare — shall I dispense?

Hon. Senators: Dispense.

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, on division.)

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. Paul E. McIntyre: 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 establishes a National Security and Intelligence Committee of Parliamentarians, and sets out its composition and mandate. In addition, it establishes the committee's secretariat, the role of which is to assist the committee in fulfilling its mandate. It also makes consequential amendments to certain acts.

When the government introduced this legislation in the other place, it was stressed that their objective was to enhance national security review and meaningfully engage with parliamentarians. As the bill was debated in the other place, government MPs asserted that the proposed committee would close the accountability gap and help build the trust of Canadians in our national security and intelligence activities.

Our primary purpose in the Senate must be to look closely at the legislation and ask whether the government's declared objectives are being met. I have several concerns in this regard that I would like to highlight.

First, I am concerned with the proposed structure that the government has put forward to the committee. The legislation proposes to establish a committee of parliamentarians rather than a committee of Parliament. The latter is specifically responsible to Parliament while the former, as proposed in this bill, is governed by the statute that creates it. It can be argued that members of the committee are therefore formally responsible to the Governor-in-Council rather than to the chambers of which they are members.

[Translation]

The government is also trying to make sure that it will always have a majority in the committee. The bill states that no more than five of the 11 proposed members should be members of the current governing party in the House of Commons. However, it is safe to assume that at least one of the Senate members will be on the government's side, which will likely ensure that the government has a majority in the committee no matter which party is in power.

If the committee is really supposed to be non-partisan, it should not matter if the government has a majority in the committee. I invite senators to consult the latest list of members of the United

Kingdom's Intelligence and Security Committee of Parliament, in which the governing party did not have a majority. This is certainly an issue we will have to examine in greater detail in committee.

[English]

A second issue of concern is the limitation on Senate representation. Under the terms of the legislation, the committee is limited to up to three senators. Based on the constitutional equality of the two chambers of Parliament, this is an issue that requires close examination, particularly given the mandate of the proposed committee.

This committee is designed to provide impartial review of Canada's security and intelligence services. If one genuinely wanted to encourage impartial review, it may not be necessary to limit Senate participation to three members. I submit that senators are often able to bring expertise to the table, which would be tremendously beneficial to a committee such as the one that is proposed in this legislation.

Given their length of tenure, senators are also able to provide a useful corporate memory for a committee such as the one that is envisaged. Last week, I heard Senator Jaffer speak very eloquently on the matter of incorporating clear and effective provisions on the issue of Senate representation. I also heard Senator Joyal speak to the matter of the expertise and corporate memory that senators can bring to committee proceedings.

I believe that these concerns are legitimate and need to be carefully considered.

I am concerned that, by arbitrarily limiting the committee to a maximum of three senators, one limits both the expertise and corporate memory of the committee before it even begins functioning.

[Translation]

The third issue is the fact that the committee chair was appointed over a year ago. That troubles me because, by appointing the committee chair prematurely, the government inadvertently undermined its stated intention of making sure that parliamentarians play an active role in deciding the makeup of the committee.

[English]

A fourth issue that will need to be examined is the plan to layer this new parliamentary committee on top of the Civilian Review and Complaints Commission for the RCMP, the Security Intelligence Review Committee of CSIS and the Office of the Communications Security Establishment Commissioner.

It is so far very unclear how the new parliamentary committee will work in conjunction with these existing review bodies. While I acknowledge that some of the particulars of this interaction may only become evident once the committee is constituted, we will need to hear more from the government on how it envisages this interaction working.

[Senator McIntyre]

• (1550)

Finally, we have clause 12 of the proposed legislation which will remove parliamentary privilege from any individual who is a member of the committee.

Senator Stewart Olsen and others, in both the House of Commons and the Senate, have spoken about the implications of removing parliamentary privilege from committee members.

Again, we need to reflect on the British model as parliamentary privilege has not been stripped from members of the Intelligence and Security Committee in the United Kingdom.

[Translation]

The bill gives rise to one final concern as it establishes an exhaustive list of the information that the committee will not have access to. This list includes any confidential information of the Queen's Privy Council for Canada; information described in subsection 11(1) of the Witness Protection Program Act; the identity of a person who is or is intended to be a confidential source of information; information relating directly to an ongoing investigation; information from his or her department that the minister deems to be "special operational information"; and, lastly, information that the minister would deem to be "injurious to national security."

[English]

Additionally, under clause 21(5), the Prime Minister may direct the committee to exclude any information that he or she does not want to see shared with the public but which the committee may believe should be.

I fully acknowledge that some of these exclusions may be justified in the interests of national security or identity protection.

However, I am concerned that others are not as clearly justified and may be too sweeping. In particular, the blanket exclusion of any information that may pertain to an ongoing investigation may be too broad as might be the exclusion of any confidence of the Queen's Privy Council.

Broad and blanket exclusions, the ability to use unilateral decisions on the provision of information and removing parliamentary privilege are concerns that will have to be seriously addressed at the committee level. I fear that if not corrected, these flaws could undermine the effectiveness of the committee from the start. This is all the more surprising since the British model, upon which the government supposedly formulated its legislation, addresses many of these flaws.

There are issues that we must look at carefully as we study Bill C-22. This matter is simply too important not to get it right.

As we prepare for committee study of the bill, I would like to recommend that all senators take a close look at the 2004 *Report of the Interim Committee of Parliamentarians on National Security*.

This report was drafted by a committee with Senator Kenny as the Deputy Chair and provided some very interesting and thoughtful recommendations to government on how a parliamentary committee on security and intelligence matters should be constituted. It talked about principles that included genuine committee independence, the retention of parliamentary privilege and the contribution that senators could make through a committee composed of equal Senate and House of Commons representation.

Senator Kenny worked closely on this issue in 2004, and I think his longstanding expertise on security and defence issues is illustrative of the expertise and corporate memory that this committee might bring to this matter.

I know that other senators in this chamber, including Senators Lankin and Lang, also have a deep expertise that will be very important to draw on.

In closing, I would like to underscore that we agree with the government, that if a committee is to be created, then it must be effective. We also agree that such a committee must build trust, as well as a non-partisan approach to the examination of security and intelligence matters. We have expertise in this chamber that can assist us in that regard, and therefore we need to take the time to examine this bill carefully in committee. With the cooperation of all senators, I believe we can contribute to making this a better bill that will protect our national security and serve the needs of all Canadians. Thank you.

Hon. Frances Lankin: Would the honourable senator take a question?

Senator McIntyre: Yes.

Senator Lankin: Thank you very much. I very much appreciated your speech and a number of the points you made. I'm in the process of reading the report that you just referred to. I think it is well-commended reading for all senators. I appreciate that.

I think at the end, when you said that you agree with the need for a committee, for it to be effective if it's going to be established, and the need to build trust, that's some of the balance that has to be struck and that's what the government bill is attempting to do.

I want to zero in on one of your concerns, and I think they are all things we should look at in committee. But the list of exclusions of information and the placement of screening, I'm concerned about the broad phrase if it is of concern to national security. I understand the need for that, but I want to tell you during my time on the Security Intelligence Review Committee the service regularly redacted everything in the name of concern for national security. I can tell you, having looked through the reports, that that was an unnecessary and unwarranted overcautious approach.

My concern is with the discretion being given at ministerial level, a different application of that ministerial discretion as opposed to a centralized perspective in government. I wonder if you could comment on that.

The second point is in the British Parliament, when this was struck, it was not a parliamentary committee; it was a committee of parliamentarians. We might think that that is not a very big difference, but it was in that this committee reported to the Prime Minister and it was a committee that was set aside in an attempt to build the trust and move away from partisanship. I think over the years that model has proved itself. We can learn from that, but we may have to take some baby steps, and perhaps that's what you're referring to. I'm asking if that's what you meant when you said that some of these things we will have to see the government's intention in the actual application of the exclusions.

Senator McIntyre: Thank you, senator, for your question. I understand that you have contributed to a number of diverse government bodies and initiatives, including the Security Intelligence Review Committee. You are, therefore, in a good position to analyze this bill with an open mind, and thank you for your question.

As I've indicated, obviously this bill raises concerns. I believe those concerns should be addressed both at committee level and in this chamber.

Let me answer your question this way: In the other place there was agreement and disagreement among witnesses and political parties that a parliamentary intelligence and security review committee may be a good idea. There was considerable disagreement on the specific components of this bill and over the parameters for the committee being set by the government. This said, I trust and hope that all senators, including the independent Liberals and the independent senators, will raise concerns about the other components of this bill and support significant improvements to Bill C-22.

Again, speaking about the House of Commons — and I hope I'm answering your question — is that all opposition parties in the other place raised objections regarding this bill. The common critiques related to the degree of government control over the bill were very important. Also the fact that the committee was not constituted as a committee of Parliament, the scope of information exclusion that the government would possess — and this is important — an inability to compel witnesses to appear before committee because, as you know, they will not have the power to do so.

Amendments made at the committee level to address these concerns were supported by a minority of Liberal Party MPs through the government, but the government eventually rejected those amendments at report stage in the other place. I would say that there are important clauses that we have to look at, and those clauses, I would say, are 12, 14, 16 and 21. These are the most relevant clauses that we need to look at. I think we should start at committee level and bring this matter back to the Senate and discuss it further.

(On motion of Senator Griffin, debate adjourned.)

(The Senate adjourned until Thursday, May 18, 2017, at 1:30 p.m.)

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