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Thursday, November 29, 2007

THE HONOURABLE NOËL A. KINSELLA
SPEAKER

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THE SENATE

Thursday, November 29, 2007

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

Prayers.

SENATORS' STATEMENTS

BUSINESS OF THE SENATE

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, we have had consultations with the other side. Given the number of senators interested in making statements today — and we have a backlog — I ask for leave to extend the period for Senators' Statements today by up to 15 minutes, for a total of up to 30 minutes, with the provision, of course, that given that our two ministers are not here today, the house would also grant leave that Question Period not be held today.

The Hon. the Speaker *pro tempore***:** Is it agreed, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

NEW BRUNSWICK

VISIT BY OFFICIAL REPRESENTATIVE OF TAIWAN

Hon. Pierrette Ringuette: Honourable senators, during the last week of October, I welcomed Taiwan's official representative to Canada, David Lee, to my home province of New Brunswick. Since no commercial flights fly to my region, I met Mr. Lee at the Quebec City airport, and we travelled four hours by car to Edmunston, New Brunswick.

During his visit to New Brunswick, Mr. Lee met with business leaders and groups, in particular the vice-president of the Conseil économique du Nouveau-Brunswick, representatives from Enterprise Grand Falls Region and from Enterprise Madawaska, as well as a number of business people interested in exporting various products to Taiwan, such as hardwood floors, small motors, signs, labels, potatoes, chicken and beef.

These business people had an opportunity to meet with Mr. Lee and discuss the export potential of their products. Research going on at the Grand Falls Community College has proven to be very important, with the renewal of the memorandum of understanding relating to research signed between Taiwan and Canada, through the National Research Council.

[*English*]

On Wednesday, October 31, we took the three-hour scenic drive from Edmundston to Fredericton via the Saint John River Valley. In Fredericton, we visited the legislative assembly and the Beaverbrook Art Gallery, followed by a visit with Premier Shawn Graham as well as three provincial cabinet ministers: the Honourable Ronald Ouellette, Minister of Agricultural and Aquaculture; the Honourable Rick Doucet, Minister of Fisheries; and the Honourable Greg Byrne, Minister of Business New Brunswick.

Discussions between Dr. Lee and the provincial ministers focused on additional exports to Taiwan of New Brunswick products via packaged marketing such as seafood, beef, beer, wine and other possible targeted commercial exports.

• (1340)

Although the task of organizing Mr. Lee's visit to New Brunswick required time and energy from my office, I believe that fostering greater links between Taiwan and New Brunswick will benefit the citizens of New Brunswick as we continue our quest into the global marketplace.

[*Translation*]

Taiwan and its trade organization TAITRA have been incredibly successful and serve as a model not only for Asia, but also for all the countries that aspire to a better future for their business communities and their residents.

I hope that we will see an increase in exports from New Brunswick to Taiwan in the coming years.

[*English*]

PUBLIC SAFETY

GOVERNMENT DECISION NOT TO APPEAL DEATH SENTENCE OF RONALD SMITH

Hon. Serge Joyal: Honourable senators, three weeks ago, on November 1, the Minister of Public Safety declared that he would not seek from the American authorities commutation of the death penalty to life imprisonment for Mr. Ronald Smith, a Canadian citizen from Alberta on death row in the state of Montana.

The two main reasons stated by the minister for this radical departure from past practice, subsequently repeated in the Senate last week by the Leader of the Government are, first, that it sends — and I quote:

> . . . the wrong message, that there are no consequences for serious crimes committed in other democratic countries.

— like the United States, and that the government is, and I quote again:

> . . . not serious about dealing with these terrible crimes.

— after having brought in "some new tough law-and-order legislation."

These two arguments fly in the face of fundamental justice as guaranteed by section 7 of the Charter of Rights and Freedoms and confirmed by a unanimous decision of the Supreme Court of Canada in the *United States v. Burns* case of February 2001.

It is a pity that the government has decided to return to the days when one single person, in his or her own mind, without any open adversarial procedure, which is the essential character of the criminal justice system in our country, can decide, *ex parte*, that a person — in this case a Canadian citizen — will be executed for the mere sake of government image — that it has to appear "tough on crime."

In other words, the new position of the new government is to preach the violent example of lethal injection, all the while ignoring the U.S. Supreme Court concerns and the numerous medical and scientific objections by Americans that have condemned lethal injection as an inhumane means of execution. Instead, the government is intent on restoring the principle of *lex talionis*, "an eye for an eye," and reinforcing the culture of violence and retribution.

The government decision to permit the imposition of the death penalty on a Canadian citizen by the state of Montana is contrary to Canada's international obligations, confirmed in three different conventions and covenants signed by Canada.

As I have already mentioned, this policy is contrary to our own Charter of Rights and Freedoms, guaranteeing fundamental justice and prohibiting cruel and unusual treatment. It flies in the face of our heritage in the belief of the sanctity of life that Canada implemented through its decision to abolish the death penalty 30 years ago.

The explanation given by the government leader that the United States is a democracy and, as such, possesses a credible system of justice is contrary to the findings of our own Supreme Court in the *United States v. Burns* case.

The court noted in 2001 that at least 87 persons were released from death row in the U.S. after having been wrongly convicted and that the overall rate of prejudicial error in the American punishment system was 68 per cent.

Further, quoting, among others, from the American Bar Association, the Canadian court observed:

> The adequacy of legal representation of those charged with capital crimes is a major concern. . . . The defendant's life ends up entrusted to an often underqualified and overburdened lawyer who may have no experience with criminal law at all, let alone with death penalty cases. . . .
>
> Studies show racial bias and poverty continue to play too great a role in determining who is sentenced to death.

[*Translation*]

The government thought it more politic to exchange the highest principle of the protection of every human life, the foundation of our shared humanity, for a message tinged with partisan propaganda, for purely electoral reasons. This is a sad moment for the legitimacy of our convictions and our values as a nation. History has taught us that when principles are trumped by electoral gains, in the short term, we find ourselves in the worst of all compromises, perhaps even willing to sacrifice human life.

I take great exception to this denial of our fundamental principles, the principles at the core of our free, humanist society, and I urge the government to immediately reconsider the dangerous path it has embarked upon, and to intervene with the American authorities to ensure that Ronald Smith's death sentence is commuted to life in prison.

• (1345)

[*English*]

NATIONAL DEFENCE

NAVAL ACTIVITY

Hon. Hugh Segal: Honourable senators, on November 23, Her Majesty's Canadian-Pacific Fleet ships *Algonquin*, *Calgary*, *Ottawa*, *Vancouver* and *Protecteur* and their 1,100 Canadian sailors and aircrew returned to Esquimalt from an exercise in the vicinity of the southeast coast of North America.

The naval task group sailed from Victoria, B.C. on October 22 and joined the USS *Abraham Lincoln* Carrier Strike Group in the southwest marine operating areas. No navy in the world has the level of interoperability with our American allies as does the Canadian Navy. *Calgary* integrated with the carrier strike group and assumed the role of "friendly force." The remaining four Canadian ships formed a task group and became the "opposing force." The two forces trained on interception and detection over vast ocean operating areas and this coalition exercise enhanced naval interoperability and provided ships' crews with valuable training and experience in a multinational setting.

As of last week, there were 3,012 Canadian sailors deployed internationally and off our coasts. HMCS *Toronto* completed a port visit to Istanbul, Turkey in support of our common values shared through NATO, in which Turkey had the larger standing army. In order to share our common values with those Islamic countries who are our allies and friends, *Toronto* is now operating in the central Mediterranean, in company with Standing NATO Maritime Group 1, and HMSC *Charlottetown* is continuing en route to the Persian Gulf, in company with the USS *Harry S. Truman* Carrier Strike Group, as our ongoing maritime contribution to the campaign against terrorism.

Lastly, 85 of our sailors were employed in support of Canadian Forces international missions from Haiti to Sudan and Afghanistan, as well as CFB Alert and in Sierra Leone. Of that total, 61 are deployed to support Canadian Forces operations in Afghanistan, in difficult areas such as mining anti-explosives and doing what has to be done to help protect Canadian Forces.

Our naval men and women continue, around the world, on the seas, in the air and on the land, to reflect the values and international and geopolitical strategies of Canada in a complex world. They do so with clarity, professionalism and competence that is a credit to our Armed Forces and to the country we love and share together.

[*Translation*]

HONOURABLE MARCEL PRUD'HOMME, P.C.

CONGRATULATIONS ON RECEIVING ORDER OF FRIENDSHIP OF RUSSIA

Hon. Pierre Claude Nolin: Honourable senators, today I would like us to share in the honour our colleague, Senator Prud'homme, has received. Senator Prud'homme was recently recognized by President Putin as a friend of Russia. I believe that this honour does us all credit and that it is important to recognize it.

With your permission, I would like to read an excerpt from the statute relating to this award. As you can see, Senator Prud'homme is proudly wearing his medal. I will read about what it signifies:

> The Order of Friendship is bestowed upon recipients for their significant contribution to the strengthening of friendship and cooperation between nations and nationalities and to the development of the economic and scientific potential of Russia, for their exceptionally fruitful mutual enrichment of cultures, nations and nationalities and in bringing them together, and for strengthening peace and friendly relations between states.

Honourable senators, rarely does one of our colleagues receive such a mark of friendship, and I believe that it is very appropriate that Marcel Prud'homme, the dean of Parliament, should be the recipient of this honour. I believe that our colleague has worked tirelessly, through difficult times, to bring Canadians and Russians together. The Russian president has recognized his efforts. We congratulate Senator Prud'homme on receiving this award.

• (1350)

Hon. Marcel Prud'homme: Honourable senators, I am touched. I just spoke with the Prime Minister of Russia and, as I told him, it is always risky to ask me to speak. You know my reputation. Fidel Castro claims that I can speak longer than he can. Last summer I had the opportunity to travel around Venezuela with Hugo Chavez and, in a standoff, we talked for seven hours and twenty-five minutes on television.

I will not take advantage of your kindness, but wish only to say that I have learned one thing in life: to take bold action in the most difficult moments of life.

I attempted to engage with the East Bloc countries in more difficult times. I had powerful supporters. I dared to do so openly, under the watch of the country's security services, as reported in *La Presse* yesterday. I believed that it was my duty as a parliamentarian, and that others should be allowed to carry out their duty of providing security services.

I would like to say that, in view of the planetary state of mind, it is wrong and unhealthy for there to be only one military, economic and political power in the world.

For the planet to do better there must be checks and balances, and what I see more and more of in Russia is unbelievable.

[*English*]

The Speaker was there with some colleagues. It is unbelievable the development and the partnerships that can take place. A military man from Toronto, Mr. Forest, was honoured today with a military medal. He said, "What has happened? We were together from 1942 to 1945. We were together in history. We must get back." We have much in common with Mother Russia. We work together on many development projects. We face the same difficulty; the same minority groups. People think in Quebec, in my province, that we have one problem. Russia deals with something like Quebec's problem 100 times over.

It is important to study the current time zones more. The Duma includes members from 11 time zones from Vladivostok to Moscow. Imagine what it is to be a member there. There is an election on this topic. There are four pillars on which they are placing a significant amount of effort — and this should touch Canadians, businessmen and young people — those pillars are housing, health, education, and especially agriculture.

Honourable senators, there are unlimited possibilities for people who are interested. I told some businessmen this morning, "You only think business, business, business, but business needs political stability. If you have political stability, then you can start to become more prosperous." As neighbours, Canada and Russia can develop the North together and be partners in the future there. That is what we want to do.

If I dedicate this medal to anyone, it would be to the young people of Canada. I would tell them: Do not be afraid to stand up and fight for something you believe in. If you are lonely or if, at times, no one listens, then reach out. As I said in *La Presse* yesterday, my policy is reaching out. If there is no one to take my hand at first, then I reach out again the day after. I know that at the end of the day people will establish contact. That is what I think we in the Senate, more so than in the House of Commons, should be able to do.

• (1355)

I am speaking with great passion. I must calm down. I will be going back to my so-called seniors' residence to confront another great experience next Tuesday.

Hon. Senators: Hear, hear!

NATIONAL PARKS

CONSULTATION PROCESS ON EXPANSION OF NAHANNI NATIONAL PARK

Hon. Nick G. Sibbeston: Honourable senators, I indicated in my question to the Leader of the Government in the Senate yesterday that I was very concerned about the way in which consultation was conducted with respect to the proposed expansion of the Nahanni National Park. The purpose of the consultation was to obtain the views of people with respect to the proposed expansion, and in the end there were three options given to the people for consideration.

The process has concluded. Throughout that process, the mineral assessment report was not made available to the public. Only in the last few days has that report been made

public. However, throughout the consultation process with respect to the park, this very important piece of information about the geological state of the area and the minerals that land contains was never made available to the public. I consider this a major flaw in the consultation process, and the government should do something about it.

I have written letters to the Minister of the Environment and to the Prime Minister. The Prime Minister was recently in Fort Simpson and visited the Nahanni National Park, so he knows what I am talking about.

Many people in the Dehcho region where I live are concerned that the consultation process was not conducted properly and that there needs to be a new approach taken. The approach I am proposing is one that had been used in the northern coastal region of British Columbia.

The Spirit Bear conservation area was created a number of years ago, and it was completed with the participation and cooperation of First Nations people, environmentalists and industry. The result was successful. Therefore, I suggest that the same kind of approach be taken in the North. There would be a better result than that obtained from the approach that was taken by Parks Canada. As I said, that has a major flaw in it because it did not include this MERA report, which is so important in the consideration of the park expansion.

I hope honourable senators will be understanding and sympathetic as I continue to pursue this matter.

SPECIAL OLYMPICS MONTH

Hon. Jim Munson: Honourable senators, as the month of November draws to a close, I remind you that this month is Special Olympics Month in Canada. The Special Olympics is an international movement that provides opportunities for people with intellectual disabilities to train and compete in athletic events.

I am proud to have been part of Canada's team in Shanghai for the 2007 Special Olympics. Canada's team gave exceptional performances and showed the world exemplary sportsmanship.

[*Translation*]

Over 7,000 athletes from 160 countries participated in the Special Olympics in Shanghai. That is an impressive number. Not long ago, in China, where I lived for several years, one rarely saw people with mental disabilities. They were hidden away. People were ashamed of them. The fact that 1,000 Chinese athletes participated in these games is proof that the Special Olympics have the power to transform attitudes.

[*English*]

Many honourable senators may remember a time when we thought mentally challenged people were incapable of participating in sports. In fact, many mentally challenged people were kept isolated from society as if we were ashamed of them. Started in the 1960s, the Special Olympics has shown the world what kind of hogwash that prejudiced thinking was.

Putting the principle of inclusion to work, the Special Olympics breaks down barriers and challenges our thinking about people with intellectual disabilities.

• (1400)

The movement has changed a small part of the world in a big way. The Special Olympics movement is alive and well in Canada, but we can do more to give a greater number of potential athletes a chance to participate. For Special Olympics month, I urge honourable senators to get involved. Senators can coach, volunteer to encourage an athlete to practise, or contribute financially to the movement. By supporting the Special Olympics, honourable senators will help to reach out to these potential winners and will strengthen the Special Olympics movement. Honourable senators will help break down the barriers that still exist for people with intellectual disabilities. By supporting Special Olympics, they will help to make Canada more inclusive, and the world a better place.

THE HONOURABLE MARCEL PRUD'HOMME, P.C.

CONGRATULATIONS ON RECEIVING ORDER OF FRIENDSHIP OF RUSSIA

Hon. Rod A. A. Zimmer: Honourable senators, I rise today to recognize the achievements of our colleague, Senator Marcel Prud'homme. Today Senator Prud'homme was awarded the Order of Friendship by the Russian Federation. The Order of Friendship is awarded to citizens in the Russian Federation and to foreign citizens who have made a significant contribution to strengthen peace and mutual understanding between peoples and states. The award is the highest one given by the Russian government to a non-citizen. The only other Canadian to receive this award is the Right Honourable Adrienne Clarkson, former Governor General of Canada.

Senator Prud'homme's interest in international relations can be traced back to his days as a student leader at the University of Ottawa in the late 1950s and early 1960s. Senator Prud'homme took an active interest in the Algerian liberation movement and demonstrated in support of the Algerian people several times.

Senator Prud'homme's passion for international issues, his openness to the Third World and his deep desire for a fair and equitable world order has permeated his career of 43 years in federal politics. Although he has been a passionate supporter of the Palestinian people and a tireless advocate for the Arab world, Senator Prud'homme's involvement extends to countless other countries across the globe. Indeed, only last year he was awarded the Freedom Fighter Award in honour of the fiftieth anniversary of the Hungarian Revolution of 1956.

Today, honourable senators, I rise to pay tribute to our esteemed colleague, Senator Marcel Prud'homme. He is a shining example of the important role that we, as parliamentarians, have the opportunity to play in Canada and on the world stage.

[*Translation*]

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, I would like to add a few comments to what my colleagues have already said.

I am very pleased to salute Senator Marcel Prud'homme, who was awarded the Russian Federation's Order of Friendship in recognition of his exceptional contribution to strengthening and developing Canada-Russia relations. This honour is reserved for Russian citizens and foreigners who have made significant contributions to strengthening peace and mutual understanding among peoples and their States.

Over the years, Senator Prud'homme, a respected parliamentarian who has always been ahead of his time, developed and maintained productive interparliamentary relations between Canada and Russia, as well as with other countries, often in defiance of prevailing ideas at the time.

This award acknowledges his efforts, his commitment and his ability to build friendly relations with his counterparts in various countries and to establish fruitful interparliamentary relations with varied and various States around the world. This recognition is a sign of the Russian Federation's high regard for Senator Prud'homme and, as such, it is also a tribute to the Senate of Canada and the work of its members.

Senator Prud'homme truly deserves this tribute, and I would like to offer him my sincere congratulations.

• (1405)

[*English*]

ROUTINE PROCEEDINGS

NATIONAL BLOOD DONOR WEEK BILL

REPORT OF COMMITTEE

Hon. Art Eggleton, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, November 29, 2007

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

SECOND REPORT

Your Committee, to which was referred Bill S-220, An Act respecting a National Blood Donor Week has, in obedience to the Order of Reference of Tuesday, November 27, 2007, examined the said Bill and now reports the same without amendment.

Respectfully submitted

ART EGGLETON
Chair

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

Senator Eggleton: Honourable senators, with leave, later this day.

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

An Hon. Senator: No.

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

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-2, An Act to amend the Criminal Code and to make consequential amendments to other Acts.

Bill read first time.

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

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

[*English*]

PHTHALATE CONTROL BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-307, An Act respecting bis(2-ethylhexyl)phthalate, benzyl butyl phthalate and dibutyl phthalate.

Bill read first time.

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

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

• (1410)

THE SENATE

NOTICE OF MOTION TO URGE GOVERNMENT TO RECONSIDER DECISION NOT TO APPEAL DEATH SENTENCE OF RONALD SMITH

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

> That this house urge the Government to reconsider its decision not to appeal the death sentence of Ronald Smith, a Canadian citizen, who is on death row in a prison in Montana, and seek from the American authorities a commutation to life imprisonment; and

That the Government abides by the basic principle of the sanctity of life and commit itself to supporting, at all international forums, the abolition of the death penalty in the full knowledge that this country abolished capital punishment more than 30 years ago.

ORDERS OF THE DAY

DONKIN COAL BLOCK DEVELOPMENT OPPORTUNITY BILL

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator Di Nino, for the second reading of Bill C-15, An Act respecting the exploitation of the Donkin coal block and employment in or in connection with the operation of a mine that is wholly or partly at the Donkin coal block, and to make a consequential amendment to the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act.

Hon. Gerard A. Phalen: Honourable senators, I rise today to add my voice in support of Bill C-15, the Donkin coal block development opportunity act.

In order to understand the importance of the reopening of the Donkin block, I believe it is important to understand the history of coal mining in Cape Breton and the role it has played since the 1600s.

The first mention of coal in Cape Breton came in 1672 when French explorer, colonizer and Governor of Acadia Nicholas Denys declared "there is a mountain of very good coal four leagues up the river at Sydney Harbour." He was granted the right to levy a duty of 20 sous per tonne on coal extracted from Cape Breton.

The French military mined coal in the late 1600s by literally prying coal with crowbars from outcroppings on the cliffs along the shoreline. Coal was extracted from exposed seams along the cliffs and used by the French in the construction of their fort at Louisbourg. It was not until 1720 that the first coal mine was officially opened at what is now Port Morien. Over the next 100 years, coal mining continued on a small scale by either the colonial government or through leases by private individuals.

In 1826, Frederick, Duke of York, the favourite son of King George III, who had been granted sole right by the Crown to all coal resources of Nova Scotia, handed the leases over to one of his major debtors, a London jewellery firm which set up the General Mining Association.

The years from 1826 to 2001, when the last mine was closed in Cape Breton, would see a roller coaster of ups and downs for the mining towns of Cape Breton as well as the people of the region.

For instance, by 1903 the Dominion Coal Company was producing 3,250,000 tonnes of coal per year, and by 1912 the company had 16 collieries in full operation. At that time, the production of those mines accounted for 40 per cent of Canada's total output.

It is estimated that over the years of the Dominion Coal Company operating the mines, they extracted roughly 250 million tonnes of coal. It is also estimated that there remains 257 million tonnes of economically recoverable coal still available.

The story of coal mining in Cape Breton is also the story of the miners themselves and, indeed, one of both successes and tragedies. It begins in 1873 when eight coal companies operated in Cape Breton — and miners were paid 80 cents to $1.50 per day, and boys were paid 65 cents — and continues through the 1900s with roughly 100 mines having operated in the Sydney coalfields.

It has often been said that coal mines formed the nucleus of some Nova Scotia communities. From the company stores and the housing in the immediate vicinity of the mines to the development of entire communities, the mines played a major role. When the mines closed, as they always did, they left behind a social legacy of success or failure. Some communities continued to exist in varying degrees of prosperity, while others collapsed and were abandoned.

The history of coal mining in Cape Breton is also a story of immigration. With the boom in coal and steel development, small villages in Cape Breton grew into bustling industrial towns. Immigrants came from all over the world to work the mines. Over a 10-year period, starting in 1901, Glace Bay went from being the forty-sixth largest population centre in Canada to the twenty-second.

The people of Cape Breton have shared in both the successes and failures of the coal industry, and we have shared the grief of the many personal tragedies the mines have seen. We Cape Bretonners are, one could say, inextricably linked to the coal mines.

Therefore, honourable senators, when the Nova Scotia government announced in 2004 it was accepting bids to reopen the Donkin mine, it was big news in the area. Work began on the Donkin mine in 1980. By 1987 two parallel tunnels had been drilled 3.5 kilometres to what is known as the Harbour seam, ending at a depth of about 160 metres below the ocean floor, at a cost of roughly $100 million.

In the meantime, the market conditions for Donkin coal had changed, and the development of the coal mine was put on hold. In 1992, the Cape Breton Development Corporation sealed the tunnels and allowed them to fill with water.

However, by the new millennium, prices had rebounded, and in 2005, a Swiss company, Xstrata, submitted the winning bid to redevelop the Donkin mine. Xstrata subsequently began work and announced in September of 2007 that it had completed pumping out 350 million gallons of water from the tunnels. Xstrata continues to study the feasibility of reopening the Donkin mine and has said it will make a final announcement on the reopening in August of 2008.

I was pleased to read in recent newsletters from Xstrata about their environmental planning and monitoring, including that they had been carrying out field studies to be used in preparing an environmental assessment and industrial process mandated by the department of Nova Scotia Environment and Labour. I was also pleased to read that the water they had pumped out of the Donkin mine is being treated through aeration, settling ponds and final settling prior to being released. As well, Xstrata has been holding a series of public meetings to ensure that the community is kept up to date on their operations.

The other issue I was pleased to see Xstrata addressing is that of transportation. It was reassuring to read that they have assured the community that trucking coal on local, public roads did not form part of their strategy.

Unfortunately, it became clear that there was considerable confusion and uncertainty over regulatory jurisdiction because both the Governments of Canada and Nova Scotia have offshore ownership claims, and these uncertainties, as well as overlaps and confusion in employment and safety regimes have put at risk the reopening of the Donkin mine.

Bill C-15 clarifies the jurisdictional issues. It does not guarantee the development of the Donkin mine, but it removes confusion regarding regulatory matters.

Bill C-15 also sets up a royalty regime by which the government believes it will see up to $5 million in royalties remitted to the Province of Nova Scotia annually — considerably more than the 20 sous per tonne royalty first collected by Nicholas Denys in 1672.

Honourable senators, when the government introduced this legislation in the other place, they said they believe it will result in up to 275 direct jobs in the mine as well as 700 indirect jobs.

• (1420)

Any legislation that sees almost 1,000 new Nova Scotia jobs and $5 million annually in royalties gets my support. I hope, honourable senators, that it also gets your support.

Hon. Lowell Murray: Honourable senators, would the honourable senators permit a question?

Senator Phalen: Yes.

Senator Murray: Will the honourable senator agree with me that the sponsor of the bill, Senator Oliver, was lamentably negligent in his opening speech in not paying tribute to the heroic efforts on behalf the Donkin mine of our former colleague, the Honourable John Buchanan, who, as Premier of Nova Scotia and a member of the Senate, was one of the great champions of the Donkin mine? Will he join me in expressing our satisfaction that Senator Buchanan's dream may be about to come true?

Senator Phalen: Yes, honorable senators, I agree with that.

The Hon. the Speaker: Is the house ready for the question?

Hon. Senators: Question!

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

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

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

On motion of Senator Comeau, bill referred to Standing Senate Committee on Energy, the Environment and Natural Resources.

NUNAVIK INUIT LAND CLAIMS AGREEMENT BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Gustafson, seconded by the Honourable Senator Angus, for the second reading of Bill C-11, An Act to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act.

Hon. Charlie Watt: Honourable senators . . .

[*The honourable senator spoke in his native language*]

Honourable senators, I am pleased to stand here today on behalf of the Inuit of Nunavik. I thank senators for giving me an opportunity to address the important elements of this bill.

Honourable senators, Bill C-11 intends to give effect to the Nunavik Inuit Land Claims Agreement and is a reprint of Bill C-51 from the previous session. At that time, it was referred to the Standing Senate Committee on Legal and Constitutional Affairs.

This bill would recognize the agreement as a treaty in the meaning of section 35 of the Constitution of Canada. We must remind ourselves of the sensitivity and seriousness of the bill because it does deal with the Constitution of Canada and existing Aboriginal and treaty rights.

As you know, the James Bay and Northern Quebec Agreement is a landmark that opened a new era for modern treaties. That agreement led to the process to amend the Constitution of Canada in 1982 to recognize and protect two categories of Aboriginal rights: existing and treaty rights.

I want to share with you a reflection I had in mind while preparing this speech.

Aboriginal rights were not constitutionally recognized when we negotiated the James Bay and Northern Quebec Agreement. At that time, the pattern was to surrender our rights before negotiations. Since 1982, the situation is quite different because the Constitution of Canada, 1982, recognizes and protects our rights. I extend my thanks to the negotiators for having focused only on the subject of James Bay at that time and for not including offshore claims in their decision. Offshore claims were not included because it was not appropriate to do so and such a mandate was not received from their members.

Since 1982, we have been expecting acknowledgement and respect for those rights, but we have seen many attempts to infringe and to extinguish Aboriginal rights.

In my view, Parliament had the power to extinguish Aboriginal rights prior to 1982. Since then, this power has been taken away by the new section 35 of the Constitution of Canada.

Here is what former Chief Justice Lamer wrote in the decision, *Van der Peet*:

> Subsequent to s. 35(1) aboriginal rights cannot be extinguished and can only be regulated or infringed consistent with the justificatory test laid out by this Court in *Sparrow*.

Indeed, the Supreme Court of Canada developed five essential conditions to be met by the Government of Canada to be cautious of infringement of Aboriginal rights. Those conditions have been developed to meet the honour of the Crown, to fulfil the Crown's fiduciary duty and to respect the Constitution of 1982.

The first condition is a clear, plain and legal justification that must support the infringement. A legal and clear justification could be, for example, the need for conservation of environment or to build a bridge over Aboriginal lands in respect of the customary practices.

We must ask whether the government is pursuing a compelling and substantial legislative objective and if this objective is attained in a way consistent with the Crown's fiduciary obligations to Aboriginal people.

Honourable senators, I have not seen any legal basis to justify why Nunavik Inuit would have to release and surrender their rights. From what I understand, negotiators for Indian Affairs have developed options to the surrender and extinguishment of Aboriginal rights to avoid uncertainty and litigation in court.

I disagree with a strategy having the effect that existing Aboriginal rights are technically surrendered.

The second condition is voluntary, valid and informed consent on the part of beneficiaries. Nunavik Inuit have not been fully informed that they were surrendering their existing Aboriginal rights. If they had known, they would never have accepted this.

With this agreement, Nunavik Inuit would renounce the exercise or assertion of any Aboriginal or treaty right other than those set out in the agreement. Moreover, if they exercise or assert rights outside of the agreement, they cede, release and surrender them.

In my view, it is neither acceptable nor honourable for the Crown to use technical wording in order to extinguish existing Aboriginal rights and to avoid exercise of judicial rights.

The third condition is that beneficiaries must understand clearly the consequences of their consent.

Bill C-11 will affect Nunavik Inuit in many ways. For instance, clause 11 of the bill provides that legal instruments made under the agreement will not be subject to the Statutory Instruments Act. This exemption will have significant and negative consequences for Nunavik Inuit rights.

Indeed, the Statutory Instruments Act requires that Canadian statutory instruments be examined to ensure that they are lawful, that they do not trespass unduly on existing rights and freedoms, and that they are consistent with the Canadian Charter of Rights and Freedoms. If this protection is important for all Canadians, why would Nunavik Inuit not be part of this protection? We are Canadians, after all.

• (1430)

Honourable senators, my opinion is that such discrimination is against the Canadian Charter of Rights and Freedoms and is thus totally unconstitutional.

I see another negative consequence where it is said that Nunavik Inuit will have no right to challenge this agreement. Indeed, sections 2.7 and 2.8 of the agreement state that Nunavik Inuit — and I quote:

- shall have no claim or cause of action based on the finding that any provision of this Agreement is invalid and
- shall not challenge, or support a challenge to, the validity of any provision of this Agreement.

Giving up judicial rights goes against the rule of law and our Constitution.

There is a third important concern about consequences on Nunavik Inuit in relation with their judicial and Aboriginal rights.

Sections 2.29.5 and 2.29.6 of the agreement provide that Nunavik Inuit will release the government and others from all claims, whether past, present or future, known or unknown, that relate to any Aboriginal right respecting their lands and natural resources.

The surrender of these claims could turn out to be a very serious handicap in the future, especially in relation to environmental issues. What will happen if the territory becomes polluted? What will happen if there is intensive fishing or hunting that threatens the Nunavik Inuit's ability to harvest for their needs?

While Nunavik Inuit are Quebecers, these sections must be studied constitutionally and legally by virtue of section 8 of the Civil Code, which prohibits surrendering civil rights.

Moreover, section 2.29.7 provides that the Nunavik Inuit will compensate the government in the event of a claim. Has this commitment really been explained to the Nunavik Inuit, and did they understand it properly? In my opinion, the answer is no.

The fourth condition is that the federal Crown has to meet and to consult persons to explain the agreement and its consequences.

When representatives from the federal government and Makivik travelled from community to community, I am doubtful that they explained the extinguishment of existing Aboriginal rights and the consequences. Nunavik Inuit would have said no if the agreement had been fully explained.

The fifth condition is that an equitable compensation must be offered for the rights to surrender.

Courts regularly point out that infringement of Aboriginal rights must be as minimal as possible and that fair compensation must be provided. Again, compensation is not the only issue when survival is at stake.

On compensation, the agreement provides $50,671,460 for educational, social, cultural and socioeconomic needs of 10,000 individuals, which represents $5,067.15 per individual. The agreement provides that that amount will be paid over a period of 10 years, which represents $506.71 yearly per individual.

One cannot do too much with that amount of money.

In 1993, Nunavut Inuit received, for a similar agreement, more than $1 billion for 17,000 individuals. This means $58,000 each. Why such a difference?

Honourable senators, who did the evaluation? Who has been consulted on the value of his or her rights? How much will the next generation receive? While Makivik is a non-profit association without any pecuniary gain for its members, why do some members believe they will receive cash from this agreement?

Thirty-five million dollars is also provided to implement the agreement and to finance three bodies — wildlife management, land-use planning and impact review. This amount will be paid over a period of four years.

What will happen after this period? I do not think Nunavik Inuit have specialists to accomplish this task and, unfortunately, it is only to the benefit of outsiders who have no knowledge of customary practices. Reading the whole agreement, it is evident that outsiders do not know, nor understand, customary practices.

In the compensation field, resource royalties raise perplexity. According to section 15.1.1 of the agreement, Nunavik Inuit have the right to be paid 50 per cent of the first $2 million of resource royalties received by the government in that year. The question is what exactly this section is talking about, given that the definition, from the agreement, refers to royalties prior to protection.

Indeed, resource royalties are determined by Canadian laws respecting mining, gas and petroleum resources. The calculation is usually based on the production of the resource, and no royalties are payable prior to production. Canadian laws require royalty on the production. This phrase, found in the agreement, is a very unusual one.

Honourable senators, I want to take a few minutes to provide more detail on understanding consequences and consultation.

I have chosen to expand my point of view on those two topics, having in mind that the nation-to-nation relationship is an ongoing and evolving situation and it could be difficult to reach a permanent solution.

The Constitution of Canada recognizes and protects two categories of rights: existing Aboriginal rights and treaty rights. The impact of the agreement is to extinguish existing Aboriginal rights, leaving only one category of rights; that is, treaty rights.

The Department of Indian Affairs explained that they have developed a new formula called "non-assertion technique certainty." The United Nations said that this may be another semantic for the older "extinguishment policy." For me, this is a misleading technique.

This agreement has never been presented as a tool to surrender existing Aboriginal rights. I and many other Inuit will never accept to surrender our existing Aboriginal rights. A question that comes to mind is this: Do we really need a treaty, and why a treaty if we are losing our existing rights? It would be better to stay with our existing Aboriginal rights, recognized and protected by the Constitution of Canada, not knowing what tomorrow will bring.

Nunavik Inuit are threatened in another way. Section 2.10 provides that Nunavut law will apply to Nunavik Inuit and to Nunavik Inuit lands. I do not know if many Inuit of Nunavik are familiar with Nunavut law, and I do not think that it will be possible for us to comply with both the common law and civil law at the same time. It is unacceptable that citizens must comply with two legal systems. Another consequence is that Nunavik Inuit must comply with legal rules without any possibility to influence by vote or petition. Is that normal?

• (1440)

An example can be found in the 2006 Annual Report of the Nunavut Wildlife Management Board. As indicated by its name, this board manages wildlife and adopts regulations. From its annual report, we learned that the board has approved closure of beluga hunting in the area of Sleeper Island and King George Island. They never consulted with people.

This area is near the communities of Inukjuak, Kuujjuarapik and Umiujaq. I have never heard that the Nunavik Inuit were consulted or informed about this closure, which is a threat to their capacity to harvest their needs for subsistence.

Honourable senators, let me speak now about another threat to my people, and I am equally sure this threat has not been fully explained to them, either. According to article 5.3.4 of the agreement, current quotas and restrictions will apply. It seems to me that people do not make a distinction between domestic activities for survival, and commercial and sporting activities.

While we understand quota for commercial and sports activities, it is not fair to apply them to domestic activities. The reality is that such quotas and restrictions put in jeopardy the day-to-day needs of individuals, since 75 per cent of Inuit food comes from sea and land. Domestic activity for subsistence and to feed our families is different from commercial and sports activities.

The question of quota is worse when we read articles 5.3.7 and 5.3.8 which state that Nunavik Inuit will be stuck with a quota for 20 years on the beluga, for example. This provision is not a benefit; it is an unacceptable restriction. Bill C-11 is not a simple administrative ratification of the agreement. This agreement has major negative impacts on human beings and their constitutional rights.

Consultation means interactive consultation by government representing the Crown directly with the person affected by the agreement. Governmental representatives mostly consulted with

Makivik, which is not the government of Nunavik. The purpose of this corporation is to administer the benefits from the James Bay and Northern Quebec Agreement. The provincial statute established this corporation in 1978 and I do not see, in the descriptions of their legal powers and objectives, anything that would give them the power to negotiate constitutionally existing Aboriginal rights of Nunavik Inuit. I, for one, have neither seen nor heard that Nunavik Inuit have given out an individual power of attorney to negotiate away their existing Aboriginal rights.

Honourable senators, you know how important it is to determine who has the legal capacity to represent Nunavik Inuit and to negotiate their rights. Bill C-11 and the agreement describe Makivik as representing Nunavik Inuit and, in my view, that representation is not legally possible without a power of attorney at least from the individuals involved.

This acute question came out from the lawsuit from Nunavut against the Government of Canada. Listen to this, honourable senators. This suit was initiated in December 2006, and is based on a similar agreement that Bill C-11 would ratify. The Inuit of Nunavut seek relief and $1 billion in damages for breach of contract and breach of fiduciary obligation. I have absolutely no intention to comment on this case. My interest is with regard to who has the right to represent whom in a case like Bill C-11.

The lawsuit is entitled “Inuit of Nunavut as represented by Nunavik Tunngavik Incorporated.” In its defence, the Attorney General of Canada says:

> . . . the Crown says that NTI does not have standing to bring a claim for damages on behalf of any individual Inuk or any Inuit company or business. . . .

This situation puzzles me because Makivik plays an equivalent role to NTI, but for Nunavik Inuit. The problem is that the government seems satisfied that Makivik represents Nunavik Inuit when it is time to extinguish existing Aboriginal rights. Does that mean that later, if Nunavik Inuit must sue the government, they must act individually and personally after they have lost existing Aboriginal rights collectively? If they sue the government, it will be at their own expense and they must indemnify the government as provided by article 2.29.7 of the agreement. What does the government have in mind, exactly? This important matter needs to be clarified now and for our future generations.

In the previous session, some honourable senators raised their concerns and I expressed my point of view. Today, I have raised many problems and concerns, but there are many others such as the discrepancies between the English and French versions. Furthermore, Nunavik Inuit will be in a minority situation in the Nunavut Management Wildlife Board, Nunavut Planning Commission and Nunavut Impact Review Board, and their decisions will affect their lives in many ways.

There are also other important concerns. For example, why is Quebec not part of the agreement? From another perspective, we see in this country many difficulties in implementing modern treaties.

In conclusion, honourable senators, Bill C-11 would give effect to an agreement that would have impacts for Nunavik Inuit. We must analyze those impacts in depth. On the one hand, we have the Constitution of Canada that recognizes and protects existing Aboriginal rights and treaty rights. On the other hand, we have a policy that tends to extinguish existing Aboriginal rights. In my view, the Constitution of Canada must prevail.

Since they are recognized and protected, existing and treaty rights impose positive duties on governments to respect, promote and fulfil such rights. Constitutional protections will be meaningless if nothing is done to implement Aboriginal rights and to ensure that our people use and enjoy their rights.

Unfortunately, with Bill C-11 we have no more existing Aboriginal rights, and the treaty ensures that we will never have them again.

In closing, let us recall the words of Chief Justice Lamer in the *Delgamuukw* case as a legacy. He said:

> Section 35(1) did not create Aboriginal rights; rather, it accorded constitutional status to those rights which were “existing” in 1982 . . . Since Aboriginal title was a common law right whose existence was recognized well before 1982, section 35(1) had constitutionalized it in its full form.

• (1450)

Honourable senators, let us examine this subject seriously, and for all the reasons that I have explained, let us refer this important matter to the Standing Senate Committee on Legal and Constitutional Affairs. This committee has full expertise on constitutional matters, and this bill goes to the core of its mandate.

Nakurmiik.

Hon. Gerry St. Germain: Honourable senators, I wonder if the honourable senator would take a question.

Senator Watt: Yes, I will.

Senator St. Germain: Honourable senators, there is a huge amount of confusion, and perhaps Senator Watt can clarify this for the Senate. He spoke of the ratification that took place in 2006 where, of approximately 6,000 eligible voters, over 4,800 ballots were cast, which reflected some 80 per cent, and 4,651 were “yes” votes, which is 78 per cent of all eligible voters. There were 183 “no” votes, and 10 ballots were rejected.

I believe Senator Watt’s legal counsel is Mr. Jean Roberge, and he states in a letter on page 5 that their ignorance was the reason they ratified the agreement so overwhelmingly. I do not know who he wrote this on behalf of, but I imagine he was representing Senator Watt.

The big question is, does the honourable senator agree with that statement in view of the fact that in 1975 he was a signatory to the James Bay and Northern Quebec Agreement and, in that agreement, in section 2.1, in consideration of the rights and benefits herein set forth in favour of James Bay Cree and Inuit of Quebec, the James Bay Cree and Inuit of Quebec hereby cede, release, surrender and convey all their native claims, rights, titles and interests, whatever they may be, in and to the land of the territory in Quebec, and Quebec and Canada accept such surrender?

I know of the concerns of Senator Watt, and I am sure they are sincere. However, I see a conflict here, and possibly he can explain it. Chief Justice Lamer was the greatest advocate in establishing treaties of negotiation, and obviously there was a significant amount of negotiation on behalf of this particular treaty that has been entered into. I know that it is complex, and it will go to committee, but I thought I would ask this question. I would appreciate it if the honourable senator could provide a brief answer.

Senator Watt: Honourable senators, that is a mouthful of an area to respond to. However, I will gladly respond to indicate the difference between what happened then and what is happening now.

Honourable senators, as you are aware, before I entered into this great chamber I was an activist, and I was also elected by my own people to represent them in the field of movement toward settling claims. In 1970, leading up to 1971, we occupied ourselves in the Quebec court, battling it out in the court with an interlocutory injunction. During that time, a written mandate from the people, a legal power of attorney, was given to us, to the corporation and to me, mentioning my name as president and the lawyer. Only the legal person holding the power of attorney could exercise that power of attorney.

After the six-month court case we won partially, but it was appealed in the Court of Appeal. In the Court of Appeal, we lost. The lower court ruling was overturned, but not completely. We still had the ability to go to the Supreme Court of Canada, but we decided not to, knowing the great amount of money already spent, and it was hard for us to continue to fight an uphill battle, not knowing if we would go anywhere if we continued to fight.

We decided to return to our people and say, "Look, we are at this juncture now. You have to make the decisions. We speak for you, we represent you, but we cannot act on your behalf without any meaningful legal document that gives us a power of attorney to move forward." Leading up to the agreement in principle, we obtained the power of attorney from the people, and then we negotiated with Hydro Quebec, the development corporations, and federal and provincial governments. Tri-party tables were organized all over the place.

After we concluded the agreement in principle — this is a long story, and I am sorry that I cannot make it shorter — we went back to the people again and said, "Okay, here are the principles that we managed to nail down, but again we cannot move forward unless we get a clear mandate from the people that we are representing." Then the question of power of attorney arose again, so we obtained the power of attorney to move forward. That is the movement of it.

To get to the point of the question about whether there is a conflict between what I am doing now and what happened before, the James Bay and Northern Quebec Agreement was negotiated and enacted by law, Bill C-9, which was umbrella legislation put forth by the federal government in 1975. That was before 1982, so we had unfinished business to deal with; that being the offshore issues. This is what we are dealing with now. When you are a political person with responsibility to be answerable to the people, there are times you do not share the information with your own resource people. The question of repatriating the Constitution was arising at the same time, so I decided to put my energy into the constitutional field so I that I would never have to go through the same thing that I went through by extinguishing my rights even before I opened my mouth or got to the table. That was the name of the game. That was the policy of the government, and the only policy that existed at that time.

If you think there is a conflict, no, there is no conflict. The negotiated Aboriginal rights were entrenched in 1982, so it is clear in my mind that there is no conflict.

Getting back to the earlier point that was raised, if I understood correctly, my legal assistant put something in writing stating that it was due to the ignorance of the people that they voted the way they did. If that is the interpretation, I do not think he meant to say that. I do not know whether I answered the question. My answer was lengthy.

Senator St. Germain: I thank the honourable senator.

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

Hon. Senators: Question!

Motion agreed to and bill read second time.

• (1500)

REFERRED TO COMMITTEE

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

Hon. Leonard J. Gustafson: Honourable senators, this bill has all-party support in the other place, and I think it deserves to go to the Aboriginal Committee for further study.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those this favour of the motion will signify by saying "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will signify by saying "nay."

Some Hon. Senators: Nay.

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

Hon. Gerry St. Germain: On division.

Some Hon. Senators: On division.

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

Hon. Charlie Watt: Honourable senators, I take this opportunity to move that the bill be sent to the Standing Senate Committee on Legal and Constitutional Affairs.

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?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: Carried.

Hon. Terry Stratton: On division.

The Hon. the Speaker: On division.

On motion of Senator Watt, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs, on division.

HERITAGE LIGHTHOUSE PROTECTION BILL

SECOND READING—ORDER STANDS

On the Order:

> Resuming debate on the motion of the Honourable Senator Carney, P.C., seconded by the Honourable Senator Nolin, for the second reading of Bill S-215, An Act to protect heritage lighthouses.—(*Honourable Senator Comeau*)

Hon. Lowell Murray: Honourable senators, I wanted to ask the Deputy Leader of the Government, who has moved the adjournment of this debate, whether the telephone line of the Honourable John Baird is still busy.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, it might be my telephone line that is busy. I will try to make sure that my line stays open and that the minister's office is able to get through.

To allay the anticipation of my honourable colleague's next question, I began going through my notes last night and writing comments on the speech that I will be giving as soon as possible.

Senator Murray: Honourable senators, I would simply add that in a previous life I had quite a lot of experience writing speeches for people, and if the senator needs help, I will be glad to provide it pro bono.

Hon. Tommy Banks: Honourable senators, I ask this question in ignorance of the process. Yesterday, Senator Comeau undertook to table copies of letters he had. I do not know what that process is. May we expect to see those documents soon?

Senator Comeau: Those two documents were tabled yesterday. I imagine the table officers would probably have copies, should the honourable senator wish to see them.

The Hon. the Speaker: Shall the matter continue to stand in the name of Senator Comeau?

Hon. Senators: Agreed.

Order stands.

NATIONAL PEACEKEEPERS' DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Art Eggleton moved second reading of Bill C-287, An Act respecting a National Peacekeepers' Day.—(*Honourable Senator Tardif*)

He said: Honourable senators, I rise to support this bill, which comes from the other place. The bill was proposed by the member for Algoma—Manitoulin—Kapuskasing, Brent Denis. He noted at the time he moved this that his riding includes what was once the riding of Algoma East, which was appropriately represented by the Right Honourable Lester B. Pearson, who is credited more than anyone with the kind of peacekeeping operations that were started back in those days, particularly in reference to the 1956 Suez crisis. In fact, as we know, this is the fiftieth anniversary of the awarding of the Nobel Peace Prize to Mr. Pearson, which occurred in 1957.

To a great extent we can say that peacekeeping, certainly as it was in those days, is a Canadian invention. I am pleased that in the name of Mr. Pearson we continue to see in our country an operation called the Pearson Peacekeeping Centre. The centre is located in Nova Scotia and helps to train people from many different countries in peacekeeping operations. It is a proud way to represent the legacy of Lester B. Pearson.

This bill is intended to honour those who have served in peacekeeping missions, most notably, of course, but not exclusively, the Canadian military. There have been over 60 of these missions, and Canada has participated in 50 of them, which is almost all.

Over 100,000 Canadians have participated, and some 114 have lost their lives during peacekeeping operations. All people who have served have served with great bravery and dedication to the cause of peacekeeping, and they do so in the name of our country.

In addition to the military, though, many people have helped to rebuild civil society in several countries, including people from the RCMP; the municipal and provincial police, who have helped train local police; judges; municipal administrators; NGOs and civilians from many different walks of life.

One of the operations I know the Canadian Forces were involved with was the removal of land mines. Many countries are plagued with land mines that have killed or injured not only our troops, but also many civilians.

• (1510)

There have been many people involved in these peacekeeping efforts, and peacekeeping has changed over the years. In fact, today we sometimes refer to it as peacemaking or peace support or even peace enforcement, because it is different from the days of Lester Pearson and the Suez crisis or, even following that, the missions in Cyprus and the Golan Heights.

In those cases, by and large, two armies were brought to a ceasefire agreement. It is a question of what is called the green zone or a zone between them that is patrolled by the peacekeepers. That is the kind of peacekeeping mission most Canadians are familiar with.

However, peacekeeping has changed substantially. Take, for example, the operations in Bosnia or Kosovo to see how much it has changed, where ethnic cleansing and genocide and the conflict is coming from people who are not wearing military uniforms and do not operate in the traditional military way that the early peacekeeping missions encountered.

Nowadays, our troops, our civilians and our police need diplomatic skills as well as the ability to engage in combat if necessary, to defend themselves. They engage in humanitarian aid. When I was Minister of Defence, it made me proud to see our troops help build schools, playgrounds and so many other things in rebuilding civil society, in addition to carrying weapons, doing their duty and being alert to problems occurring around them. At the same time, our troops reached out with their hands and their smiles and did so much to help build that humanitarian effort in these various places. It is for that reason that I remember how we always referred to our military as having to be multi-purpose but combat capable. They had to do many different things, but at the same time they needed the ability to defend themselves when necessary.

Of course, even as peacekeeping has changed over the years, so has conflict or war. Think back to World War I — a terrible, terrible conflict — when troops in uniform faced each other across fields. Today, the conflicts and wars engage innocent people so much more. So many more lives are lost — women, children and innocent people who are not a part of the operation. Nowadays, we see terrorism as a big part of conflict and war: terrorism through roadside bombs and suicide bombers.

Suicide bombers is the topic of another bill, put before us by Senator Grafstein, that I will speak to on another occasion.

All of these things have blurred the lines between how we traditionally understand conflict or peacekeeping and the way it is today.

We used to refer to peacekeeping as being the blue berets or the blue helmets — and that is not necessarily the case. Some people look at the statistics and say, "We are not as involved in peacekeeping or blue beret missions as we used to be." That may be, but that does not mean we are not involved in peacekeeping operations under another flag or banner. We certainly are.

In Kosovo, we acted under NATO. If we had not acted, there would have been genocide. There was an ethnic cleansing exercise under way, and it was getting worse with time. The UN just did not act in time — which is one of the problems with getting into UN missions. The UN frequently does not act on time. In order to save lives, we have to get in there, either under another banner, like NATO, or a coalition of the willing.

Hence, do not say, as some people do, that we no longer involve ourselves as much in these kinds of international operations. We certainly do; the operations just are not necessarily all under the UN banner.

While the nature of peacekeeping has changed, honourable senators, the goal has not. The goal is still to try to bring the kind of peace, freedom and dignified way of life to people in other parts of the world that we have the great opportunity of enjoying in Canada, all too often taken for granted. That goal still applies today.

The bill before us, honourable senators, legislates August 9 as an annual date for honouring and remembering our peacekeepers. August 9 was chosen as a result of a loss of lives that occurred 32 years ago on that date. On August 9, 1974, nine of our peacekeepers were killed in a plane that was struck by a surface-to-air missile en route from Beirut to Damascus. That loss represents the largest loss of Canadian peacekeepers in one single incident.

However, as I say, 114 peacekeepers in total have lost their lives, and it is all of those people we remember. August 9 is simply the date that the member in the other place selected as being the date to remember, pause and reflect on what our peacekeepers have done.

There is another important day on our calendar every year, and that is November 11, Remembrance Day. While not exclusionary by any means, on November 11 we focus on those who lost their lives in the First World War, the Second World War, Korea, and now of course Afghanistan. To have a day to reflect upon peacekeeping operations, in addition to Remembrance Day, is a good thing to do. The Canadian peacekeeper has earned the respect and admiration of the international community. We should now honour them by declaring each August 9 as National Peacekeepers' Day in Canada.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Would the honourable senator accept a question?

I have not yet read or had full chance to reflect on the bill, but I have a preliminary question. The honourable senator mentioned at the end of his comments that November 11 is the day we honour those who died in wars for the cause of our country, the day Canadians honour the veterans of past wars — and Senator Eggleton mentioned some of those wars.

Peacekeepers are soldiers first; peacekeeping is a part of their duties as soldiers. How will those soldiers feel about August 9 versus November 11? Will they feel they cannot be a part of November 11? Will participants of November 11 say to our peacekeepers, "You have your own day, August 9; that is your day; November 11 is reserved for other people in other wars"? In other words, we are making a distinction between two types of wars: the soldier who served and was either hurt or killed in action during a peacekeeping effort versus a soldier who dies or was hurt

in combat war. Have soldiers been consulted? Is this what they want? Have peacekeepers asked for their own special day, other than November 11?

Senator Eggleton: As I indicated a few moments ago, while November 11, Remembrance Day, is not exclusionary to anyone who has served in our country, it particularly focuses on veterans, Canadian Forces of past and present who have been in wars and those kind of conflicts that we associate with World War I, World War II, Korea and Afghanistan. However, in between all of those, and even currently, we have been involved in many peacekeeping operations. It is a different level of conflict, but we have been involved in a different kind of role as well. That is recognized in many different ways. For example, we have a peacekeeping monument on Sussex Drive, over and above our war memorial.

• (1520)

We also have peacekeeping medals that are given in different conflicts and wars at different times, different battles — a Canadian peacekeeping medal and a UN one. There are some distinctions in that regard.

Also many non-military people have engaged in peacekeeping. I have presented peacekeeping medals to many people in shirts, ties and suits who had never worn a uniform. Others wear different uniforms, like the RCMP or the municipal or provincial police, and do not serve in the Canadian Forces. It is an effort to focus a day on them.

Heritage Canada publishes a lot of material about November 11, much of which really relates to the wars. I do not think they necessarily mean to be exclusionary. This day would give that same department an opportunity, on August 9 each year, to reflect upon peacekeeping and the sacrifices made by those involved and the good work done. In addition to military operations, humanitarian operations have been carried out in peacekeeping missions as well. That is how I see these two days.

Just as the peacekeeping monument and the war memorial are complementary in terms of service to this country and the cause of peace, this additional day can be as well.

Hon. Nancy Ruth: If peacekeeping includes the police forces helping in the reconstruction and rebuilding of nations, does it also include other NGOs, such as teachers, nurses or doctors?

Senator Eggleton: Absolutely. As I said a moment ago, I have given peacekeeping medals to many people in civilian clothes. There are many who have served in many different ways. Peacekeeping is so multi-faceted and involves not only the military, but also people providing humanitarian aid. Many NGOs and people of different walks of life, including nurses and teachers, have been involved in these operations. It draws recognition to the 114 people who sacrificed their lives, and to all those who have served. Some came back wounded, either physically or emotionally, and some got the peacekeeping medal because of outstanding service. This honours and brings additional focus to them, over and above the recognition on November 11.

Hon. Joseph A. Day: Honourable senators, I wonder if Senator Eggleton's intention is to use the term "peacekeeping" in the broader sense of military activity, or is his intention to restrict the term to those who were involved in activities that at one time were referred to only as peacekeeping, to be excluded from peace making? For example, those terms of engagement that permitted the military to engage in the use of force if necessary. Are we talking only about individuals involved in the non-combative, non-engagement role?

Senator Eggleton: As I indicated in my remarks, peacekeeping has changed over the years. Peacekeeping is a general term still in use today. It started back in the days of Lester Pearson, perhaps before that. We continue to use it in a generic sense, even though the nature of missions today has changed a lot. I am not speaking of Afghanistan here, because I think most people categorize that as a conflict or war condition as opposed to peacekeeping. People will have different definitions.

However, peacekeeping has changed, and we have had to develop a combat capability during peacekeeping. We have always needed it, even in Cyprus.

The dangers have become more multi-faceted and challenging in more recent times: Kosovo, Bosnia, where genocide or ethnic cleansing issues came into play. Because there has been more combat, we use phrases like "peace making" or "peace enforcement." I think peacekeeping can be used to cover any of those. It is inclusionary; it does not exclude any of the other phrases.

Hon. Leonard J. Gustafson: Is Senator Eggleton suggesting that this be a statutory holiday? I think we all agree that we honour the activities of people in whatever avenue of life who bring peace, but as a contractor there are so many holidays that it is very difficult to get any work done anymore.

I would agree that we have a day, but not a statutory holiday.

Senator Eggleton: Honourable senators, I would not mind a statutory holiday, we all like those. No, it is not a statutory holiday at all. It is intended as a day of reflection on what our peacekeepers have done, and I hope we will publish educational materials to help people understand. We have various other days that do not have statutory implications but recognize different occasions. We have a Vimy Ridge Day, for example. Again, materials are distributed to reflect upon the battle of Vimy Ridge, but it is not a statutory holiday. I am sorry to disappoint those who wanted it, but this is not a statutory holiday either.

Hon. Roméo Antonius Dallaire: Honourable senators, I apologize for having missed the beginning of the debate.

The term "peacekeeping" can either be considered history, that it does not exist anymore, or recognized as an all-encompassing capability in which we provide conflict resolution that ultimately ends up with a peace agreement and monitoring as we do nation building. Debate has gone on in the academic and military milieu, and the term "peacekeeping" has remained all-encompassing — and not purely blue beret, as some might think. As the honourable senator mentioned, when he was minister and that medal came about, it did not include the volunteer aspect to peacekeeping. Many of them have been distributed that way. This is one lovely thing that is not distributed by mail anymore, but by people; either a fire chief, mayor, MP, senator, et cetera.

August 9 is already being recognized by peacekeepers; there are parades all over the place. My understanding is the honourable senator's aim is to keep it as a day of recognizing peacekeepers, but not have any more significant role than November 11. It is not in competition, it is a different exercise. Am I correct on that?

Senator Eggleton: The honourable senator is absolutely correct. That is exactly what I was trying to say. Peacekeeping has changed. We still use the term, although if we were reinventing the term today we might come up with another one. I also include the traditional kind of peacekeeping that we think of in terms of Suez, Cyprus, or Israel's Green Line with two armies in ceasefire, which still occurs today. During my time as minister we had Eritrea and Ethiopia. I travelled the no-man's lands between those two armies and it had much the same look as other more traditional ones. However, whether traditional or a modified kind of peacekeeping, they are all dangerous missions.

On motion of Senator Nancy Ruth, debate adjourned.

• (1530)

THE SENATE

PRESENTATION OF NEW PAGES

The Hon. the Speaker: Honourable senators, I wish to take the opportunity to introduce three new Senate pages who will be working with us this year.

I begin with Charlene Kwiatkowski, who comes from Langley, British Columbia. She graduated from high school as valedictorian and has had the pleasure of being involved in school and church activities there and in Ottawa. She has a love for poetry, playing the piano and sewing. Charlene is enjoying her second year at Carleton University where she is studying humanities and French.

Stephen Lichti comes from Waterloo, Ontario. After graduating from high school, he joined the Katimavik youth program and travelled across Canada volunteering with other young Canadians. He is currently in the second year of study in the Civil Law Program at the University of Ottawa.

[*Translation*]

Marie-Pierre Daigle is from Grand Falls, New Brunswick. Her love of languages and culture took her to Russia last summer to perfect her knowledge of the Russian language. She is currently working toward her degree in International Studies and Modern Languages at the University of Ottawa.

[*English*]

PAGE EXCHANGE PROGRAM WITH HOUSE OF COMMONS

The Hon. the Speaker: Honourable senators, I wish to introduce a page from the House of Commons in the person of Heeba Abdullah of Toronto, Ontario. She is enrolled in the Faculty of Social Sciences at the University of Ottawa where she is majoring in psychology.

STUDY ON MATTERS RELATING TO AFRICA

MOTION TO ADOPT REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE AND REQUEST GOVERNMENT RESPONSE—POINT OF ORDER—SPEAKER'S RULING RESERVED

Hon. Peter A. Stollery, pursuant to notice of November 22, 2007, moved:

> That the seventh report of the Standing Senate Committee on Foreign Affairs and International Trade entitled *Overcoming 40 Years Of Failure: A New Road Map For Sub-Saharan Africa*, tabled in the Senate on February 15, 2007 during the First Session of the Thirty-ninth Parliament, be adopted and that, pursuant to Rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Foreign Affairs, the Minister of International Trade, the Minister of International Cooperation and the Minister of National Defence being identified as Ministers responsible for responding to the report.

Hon. Sharon Carstairs: Honourable senators, I rise on a point of order. The motion before us is an unusual one. We are asked to approve a motion to approve a report, but the report is not before us. We have in the past moved motions where a report was approved in a previous session and was moved again by simple motion, primarily for the purpose of obtaining a government response.

However, this case is somewhat different. This report was not approved in the previous session. Indeed, it can be argued that at least one senator, who was a member of the Foreign Affairs Committee — the committee that tabled the report — had serious disagreement with the report, which was the reason he took the adjournment and had not yet spoken, and the prorogation intervened. I believe that it was his intention to move an amendment to the report for which we have precedents in this house.

However, although we now have a motion before us, we do not have the report. The question is: How can a senator who had wished to move an amendment to a report move an amendment to a report which is not before us? To put it mildly, it is somewhat confusing. In my view, it is also an extremely dangerous precedent.

This chamber has always taken the attitude that once we have a prorogation, everything on the Order Paper dies. We do not have a process to revive bills at the stage they had been in the previous session, as is the case in the other place. While in my view that may be a bad thing, that is, in fact, our current rule.

If we are able to revive motions, even motions that have not been approved in the previous session, does that mean that reports from 10 or 15 years ago could also be revived? Could we actually move a report so old that none of us presently sitting in the chamber even remember the report? Does that make any sense?

We now appear to be moving one step forward. If this motion were to be proceeded with, we would be eliminating the need for a fulsome debate on a report and potential amendments because, I reiterate, the report is not before us.

The best suggestion might be to send a reference to the Standing Senate Committee on Foreign Affairs and International Trade where they then could present a report, either the identical report or a revised one — that would be their choice. We would then have the report before us, and we could make the decision to amend or not to amend, to pass or not to pass.

To proceed to this motion, without a report, is, in my view, unacceptable and dangerous to the good operation of this place.

Some Hon. Senators: Hear, hear.

Hon. Anne C. Cools: Honourable senators, I happen to have before me, on a different file, material on the entire question of revival of bills and proceedings. However, as we are on this motion, I will say that I believe Senator Carstairs has a valid point of order.

As I have been reading the motion, I observed a few things: First, that, in point of fact, the motion is asking honourable senators to vote on something that the senators have not seen, and it is an item which is not before the Senate at all because it has not been placed before the Senate for debate in any form or fashion. In other words, the Senate does not have cognizance of the report in question and, therefore, is not in a position to debate and vote on it, as senators have not been able to read the report because the report has not been put before us.

Second, this report is a creature of another committee from another session. My understanding, honourable senators, is that when it comes to Senate reports and debates on them, we can only debate and vote on reports that are creatures of the current committees and the current session of Parliament.

• (1540)

This is a strange creature. I do not know what it is but it is a strange creature. Senator Carstairs is absolutely correct; if we can adopt this report, why stop with this one? Why do we not search back into the annals of Senate history and adopt several, many and varied reports? It is a strange creature.

The other matter that I want to add here is that this report does not originate from the committee. The name of the report in question is, *Overcoming 40 Years of Failure: A New Road Map For Sub-Saharan Africa*, but this report does not originate in the Standing Senate Committee on Foreign Affairs and International Trade.

If it did, it would have been presented and placed before the Senate for consideration. It would have been presented on the Order Paper, under the daily routine of business called "Presentation of Reports from Standing Special Committees," which would have allowed the report to be printed and placed before us so we can study it. Therefore, it does not originate from the committee.

It seems to originate from an individual — I believe a member of that committee, but an individual member of the committee — who has moved a motion on notice. That is why we are on this part of the *Order Paper and Notice Paper*, where we are looking at motions on two-day notice.

If honourable senators look at the motion before us — motion number 64 on the *Order Paper and Notice Paper* — it says clearly two days: "By the Honourable Senator Stollery, November 22, 2007". So two days' notice was given on this motion on November 22. The usual process that is followed is that a chair or a deputy chair — or it could be an individual senator on behalf of the chair — will rise under the "Daily Routine of Business" and present the report, at which point the Speaker rises and inquires as to when the report should be considered. Then a motion is usually made that it be placed on the Order Paper, or whatever disposition is desired. It is that process of presenting the report before the Senate that places it before us for debate.

This report is the same thing. Things do not spring onto the Order Paper. Bills, for example, are introduced. There is a whole process for placing proceedings before us. Therefore, this most interesting oddity seems to spring out of the air. Honourable senators, to that extent, one could say it is defective.

There are thousands of solutions. One could be for the committee to take cognizance of the report again and then make a new report to this house. There are many other solutions. However, what is crystal clear to me on the face of it is that we cannot vote on this motion because it does not place the report before us.

Since I have these documents before me, one of the huge difficulties of this motion is the whole question of prorogation. I have in front of me a copy of the prorogation proclamation of September 14. As we remember, that proclamation prorogued the Parliament of Canada until October 16, 2007.

Honourable senators, this is a proclamation, a royal decree, and not easily overcome by any simple vote of the House. If one were to look at the proclamation, it says clearly that it is given:

> At our Government House, in Our City of Ottawa, this fourteenth day of September, in the year of Our Lord, two thousand and seven, and in the fifty-sixth year of Our Reign.

Our Government House, as honourable senators know, is the seat of the Government of Canada.

I want to put that on the record. However, more importantly, I wonder if I can put one statement on the record as to what prorogation is and what it is not, and what it does and does not do. I want to read from Sir John George Bourinot, *Parliamentary Procedure and Practice in the Dominion of Canada*, fourth edition, published in 1916. He says the following on pages 102 to 103:

> The legal effect of a prorogation is to conclude a session; by which all bills and other proceedings of a legislative character depending in either branch, in whatever state they are at the time, are entirely terminated, and must be commenced anew, in the next session, precisely as if they had never been begun.

He continues:

> In like manner a prorogation has the effect of dissolving all committees, whether standing or special.

Therefore, honourable senators, this situation is odd, although I have no doubt it is a well-intentioned situation. There is a solution. However, I and most people, I think, will have difficulty voting on this motion. In other words, the motion is defective and

His Honour should not put the question on this motion because it is defective.

His Honour should declare this motion out of order because it asks the Senate to vote on a matter that has simply sprung over a prorogation. In other words, it decided to oust a prorogation. In addition, the matter is not before this house at all because it has not been introduced or presented. This motion states that "the seventh report . . . be adopted." Before we can adopt a report, honourable senators, we must take it into our possession, into our cognizance.

Honourable senators, I am sorry that I am not better prepared. Those two quotations I happened to have here because I have been working on another file. As a matter of fact, I have not paid too much attention to this issue.

I thank Senator Carstairs for raising it, but this motion is very much out of order. Perhaps a better solution would be for the mover of the motion to withdraw it and to start over again.

Hon. Eymard G. Corbin: Honourable senators, it is possible that there was a flaw in the process of this matter coming before the Senate. I say "possible."

However, the record of the Standing Senate Committee on Foreign Affairs and International Trade will show that at a meeting last week, the committee came to a consensus to the effect that Senator Stollery would be mandated, on behalf of the committee, to resurrect the report in the chamber of the Senate in the form that is now before us. That mandate is simply what Senator Stollery is attempting to fulfil. We are not resurrecting a report tabled in this Senate 15 years ago. To suggest that that could be done is a rather silly suggestion, in my opinion. We are doing this on the heels of the previous session.

• (1550)

The report was tabled in this place on February 15, 2007. It was printed and distributed. It was made available to honourable senators for months. Some honourable senators spoke, while others chose to delay their participation in the debate, for their own good reasons. I do not quarrel with that. That can be done under our rules. However, at one point we must come to some finality, it seems to me.

If there is a flaw in the process by which we bring this matter anew to the attention of this honourable house, I ask His Honour to so indicate to us so that we could correct the process. However, as a member of the committee in question and as one of the many co-authors of this report, which was the object of a consensus — I am not denying that there was some opposition to it — I can say with some certainty that we are not trying to play games. The fact that this motion is now before the house provides an opportunity for everyone to participate in the debate and to express their views. That is my contribution, honourable senators.

Senator Stollery: Honourable senators, as Senator Corbin has said, and as members of the Standing Senate Committee on Foreign Affairs and International Trade are aware, I was mandated by the committee to deal with the report that the Senate did not adopt in the last session, though a large majority of the committee wanted that done.

I wish to point something out to honourable senators. I am reading an article from what I think is today's *National Post*. This is relevant. It is an interview of Minister Oda, the minister with responsibility for CIDA. It reads:

> If it adopts the recommendations of a Senate report issued this year — "that's what we are working on, for sure," said new CIDA minister Bev Oda . . .

It is interesting that what is happening is that the world is continuing without us because the Senate has not been able to complete the business of this report.

As honourable senators can imagine, when I had my instructions from the committee I consulted at the highest levels here in the Senate as to how to proceed. I did not invent this procedure myself. I was told very clearly that the report is a public document, that it became a public document once it was tabled by Senator Segal, and that it was not necessary to table the public document again because it is a public document. Those were my instructions. I do not know what else I can do when I am told that by the most senior officers in the Senate.

On the business of sessions, I remind honourable senators that I have been in Parliament, both in the House of Commons and the Senate, for 35 years. I know full well what happens when sessions end. All legislation falls off the table. That is the way it was until recently. We now have new procedures for sessions, and this is in some way being caught up in this series of new procedures.

For example, if a bill came to the Senate and the session ended, the procedure would have to start all over again in the House of Commons. That is no longer the case. The Rules Committee, if I am not mistaken, is trying to sort out just what we do in the Senate with legislation from a previous session. It reflects poorly on our ability to complete our own business. The minister is taking some of our recommendations seriously enough — and these are only some of our recommendations, of course — such that she is quoted as having said that they are trying to comply with some of our suggestions and recommendations.

I was told that it was not necessary to reintroduce the report because it is already a public document. We feel that we cannot get the response from the appropriate government departments until the report is adopted. This is not a partisan argument. I do not think that anyone objected to the procedure at the meeting. The decision was pretty well unanimous, I would have said. I am looking at the chair of the committee. I do not want to put words in his mouth, but that is what I recall.

Therefore, I am somewhat surprised, when I follow the recommendation of the officials and do what I am supposed to do, that I find myself in this situation. The world continues outside of this place. Our report has had about 9,000 downloads and has gone all over the world, but we cannot agree to do the obvious thing, which is: By the way, I am moving the adoption. If you do not want to adopt it, you can always vote against it.

I find myself perplexed, honourable senators, because I have done exactly what I was supposed to do. I respect Senator Cools strongly in matters of procedure. She is a very knowledgeable person, and Senator Carstairs was a leader of a former government in the Senate.

This discussion has been caught up in the business of when a new session starts. There are new rules being put together. I do not think it is right that the Senate report, which is a strong report and one with which both sides agree — there is no question — cannot be dealt with in the proper manner.

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, I think we have heard the arguments on both sides of this point. I suggest that His Honour take the matter under advisement. Unless His Honour is prepared to render a decision at this point, I suggest that the matter be adjourned until such time as he returns with a response.

The Hon. the Speaker: Honourable senators, it is for the Speaker to determine when he has heard enough on the point of order, and I will not have heard enough on the point of order until I hear from Senator Di Nino and Senator Fraser.

Hon. Consiglio Di Nino: Honourable senators, I want to briefly intervene by acknowledging the fact that Senator Stollery, as Deputy Chair of the Standing Senate Committee on Foreign Affairs and International Trade, requested of the committee that he be allowed to present this motion, which was agreed upon by the committee.

I am not sure whether there is a technical misunderstanding here, but I am confirming the comments made by Senator Stollery and Senator Corbin as they relate to the committee. I confirm not the words of the motion necessarily, but the fact that the motion was discussed and approved at the committee.

Hon. Joan Fraser: Honourable senators, I rise in support of Senator Carstairs' point of order. This may be a technical point, but technical points are important. That is why we have rules. Otherwise, it could just be a free-for-all in here every day and then it would be a good thing that we are two sword lengths apart.

• (1600)

Rules matter. Even in the report of the Rules Committee, which is in fact before the chamber, it is not suggested that reports of committees be revivable in the same way that it is suggested for bills to be revivable in the second session of Parliament. I think there are good reasons for this distinction to be drawn.

That said, I understand that the Foreign Affairs Committee, or some members of that committee, have an interest in not seeing this subject die, and I think the circle can be squared. Perhaps Senator Stollery could rephrase his motion along the lines of, "Whereas, in the first session of the Thirty-ninth Parliament, the Standing Senate Committee on Foreign Affairs and International Trade studied these matters, and whereas, the committee discovered whatever it wants to mention in the first session, the Senate therefore asks the government to provide the Senate with a statement of its policy" — and we could set a deadline, as we often do when asking for government responses.

Honourable senators, I think we have two problems: First, there is disagreement over the content of the study, which is a separate matter; second, the technical problem, which, as Senator Carstairs says with absolute accuracy, is that the report is not before us. I do not think we have a method to bring the report before us just like that, but that does not stop us from asking the government to take a position on anything we want it to take a position on.

Hon. David P. Smith: Honourable senators, I am sympathetic to the point of view expressed by Senator Stollery and Senator Comeau. I just caught the tail end of their comments, as well as the tail end of Senator Cools' comments.

We do have on Reports of Committees, item No. 1, where we dealt with reinstatement of bills, which I think is very desirable. Senator Cools and I have an honest difference of opinion. I do not agree with her and she does not agree with me. The Rules Committee spent a lot of time studying this and arrived at a unanimous decision before the end of the session, and we hope that will be dealt with soon.

However, I think there is a point here that the rewording and rephrasing of the motion can be accommodated. I hate to see us in these straitjackets, but I think this is a straitjacket that can be easily solved. I am sympathetic to what they are trying to achieve and supportive of it.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, I do not want to repeat what has been said, but the rules state:

> . . . pursuant to rule 131(2)

And rule 131(2) states:

> The Senate may request that the Government provide a complete and detailed response to a report of a select Committee, which has been adopted by the Senate . . .

The motion to adopt the report includes such a request. I just wanted to bring that to His Honour's attention.

[*English*]

Senator Cools: Honourable senators, I should like to apologize to Senator Stollery. As I said before, I have not read the proceedings of the Senate committee, and I have no knowledge of what he was saying in respect of the most recent committee asking him to revive this issue before us. I am purely responding to the motion as it was, and as it is before us. It is undoubted, honourable senators, that, as it is written, the major defect still remains the fact that if Senator Stollery was attempting to resuscitate or revive the issue and the report, that is not what has happened. As this motion reads, the report is still not before us for our consideration and vote.

I have known Senator Stollery for a long time and I should like to say I had no knowledge and I was not attempting to judge that. If the committee gave him authority, then there is a way for Senator Stollery to revive the report. I would submit that way involves the committee having to readopt the report or something of that nature. The report simply cannot be sprung onto the floor

by virtue of this motion. This motion, though well-intentioned, asks us to vote on the report, but does not place the report before us. That issue still must be resolved, honourable senators.

Hon. Donald H. Oliver: Honourable senators, I want to make two remarks. First, Senator Robichaud quoted the rules of this chamber. The language that he read deals with a report that had been adopted — and the report had not been adopted.

Second, I want to state that I agree wholeheartedly with the remarks of Senator Carstairs. They are, in my opinion, legally correct and proper.

The Hon. the Speaker: Honourable senators, I will conclude by hearing from Senator Carstairs.

Senator Carstairs: Honourable senators, I thank everyone for participating in this point of order. It really is a simple concept. If the Foreign Affairs Committee brought forward a very quick mandate that they wanted to do a study on Africa, which we know in fact has been done, they would then get that approval, move their report and bring it back to the chamber. We would then have the report. We could vote on the report, or against it, but we would be voting on the report, honourable senators; we would not be voting on a motion.

That is my point. We must do things in an appropriate fashion, so we are dealing with reports, not motions.

The Hon. the Speaker: I thank all honourable senators for their contributions on the point of order that has been raised. I shall take the matter under advisement and report with a ruling as soon as possible.

Order stands.

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY GOVERNMENT SCIENCE AND TECHNOLOGY STRATEGY

Hon. Art Eggleton, pursuant to notice of November 28, 2007, moved:

> That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine issues relating to the federal government's new Science and Technology (S&T) Strategy — *Mobilizing Science and Technology to Canada's Advantage*.

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

Motion agreed to.

[*Translation*]

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Gerald J. Comeau (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

> That when the Senate adjourns today, it do stand adjourned until Tuesday, December 4, 2007, at 2 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Motion agreed to.

The Senate adjourned to Tuesday, December 4, 2007, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION

(*indicates the status of a bill by showing the date on which each stage has been* ***completed***)

(2nd Session, 39th Parliament)

Thursday, November 29, 2007

(**Where royal assent is signified by written declaration, the Act is deemed to be assented to on the day on which the two Houses of Parliament have been notified of the declaration.*)

GOVERNMENT BILLS
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act to amend the Canada-United States Tax Convention Act, 1984	07/10/18	07/11/13	Banking, Trade and Commerce	07/11/15	0	07/11/21		
S-3	An Act to amend the Criminal Code (investigative hearing and recognizance with conditions)	07/10/23	07/11/14	Special Committee on Anti-terrorism					

GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Criminal Code and to make consequential amendments to other Acts	07/11/29							
C-10	An Act to amend the Income Tax Act, including amendments in relation to foreign investment entities and non-resident trusts, and to provide for the bijural expression of the provisions of that Act	07/10/30							
C-11	An Act to give effect to the Nunavik Inuit Land Claims Agreement and to make a consequential amendment to another Act	07/10/30	07/11/29	Legal and Constitutional Affairs					
C-12	An Act to amend the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act, the Wage Earner Protection Program Act and chapter 47 of the Statutes of Canada, 2005	07/10/30	07/11/15	Banking, Trade and Commerce					
C-13	An Act to amend the Criminal Code (criminal procedure, language of the accused, sentencing and other amendments)	07/10/30	07/11/21	Legal and Constitutional Affairs					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-15	An Act respecting the exploitation of the Donkin coal block and employment in or in connection with the operation of a mine that is wholly or partly at the Donkin coal block, and to make a consequential amendment to the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act	07/11/21	07/11/29	Energy, the Environment and Natural Resources					

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-280	An Act to Amend the Immigration and Refugee Protection Act (coming into force of sections 110, 111 and 171)	07/10/17							
C-287	An Act respecting a National Peacekeepers' Day	07/11/22							
C-292	An Act to implement the Kelowna Accord	07/10/17							
C-293	An Act respecting the provision of official development assistance abroad	07/10/17							
C-299	An Act to amend the Criminal Code (identification information obtained by fraud or false pretence)	07/10/17							
C-307	An Act respecting bis(2-ethylhexyl)phthalate, benzyl butyl phthalate and dibutyl phthalate	07/11/29							

SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-201	An Act to amend the Financial Administration Act and the Bank of Canada Act (quarterly financial reports) (Sen. Segal)	07/10/17	07/11/28	National Finance					
S-202	An Act to amend certain Acts to provide job protection for members of the reserve force (Sen. Segal)	07/10/17							
S-203	An Act to amend the Criminal Code (cruelty to animals) (Sen. Bryden)	07/10/17	07/11/13	Legal and Constitutional Affairs	07/11/22	0	07/11/27		
S-204	An Act respecting a National Philanthropy Day (Sen. Grafstein)	07/10/17							
S-205	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	07/10/17							
S-206	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	07/10/17							
S-207	An Act to repeal legislation that has not come into force within ten years of receiving royal assent (Sen. Banks)	07/10/17	07/11/28	Legal and Constitutional Affairs					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-208	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	07/10/17		Subject matter 07/11/13 Energy, the Environment and Natural Resources					
S-209	An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	07/10/17							
S-210	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	07/10/17							
S-211	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	07/10/17							
S-212	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	07/10/18							
S-213	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	07/10/23							
S-214	An Act to amend the Income Tax Act and the Excise Tax Act (tax relief for Nunavik) (Sen. Watt)	07/10/24							
S-215	An Act to protect heritage lighthouses (Sen. Carney, P.C.)	07/10/30							
S-216	An Act to amend the Access to Information Act and the Canadian Wheat Board Act (Sen. Mitchell)	07/10/30							
S-217	An Act to amend the International Boundary Waters Treaty Act (bulk water removal) (Sen. Carney, P.C.)	07/10/31							
S-218	An Act to amend the Immigration and Refugee Protection Act and to enact certain other measures, in order to provide assistance and protection to victims of human trafficking (Sen. Phalen)	07/10/31							
S-219	An Act to amend the Public Service Employment Act (elimination of bureaucratic patronage and establishment of national area of selection) (Sen. Ringuette)	07/11/13							
S-220	An Act respecting a National Blood Donor Week (Sen. Mercer)	07/11/15	07/11/27	Social Affairs, Science and Technology	07/11/29	0			
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