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**Tuesday, November 25, 2008**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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## THE SENATE

Tuesday, November 25, 2008

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

Prayers.

### SENATORS' STATEMENTS

#### SEVENTIETH ANNIVERSARY OF KRISTALLNACHT

**Hon. Yoine Goldstein:** Honourable senators, the nights of November 9 to November 10, 2008, marked the seventieth anniversary of Kristallnacht. Kristallnacht, the Night of Broken Glass, was a massive coordinated attack on Jews throughout Germany. November 9 was chosen by the Nazis with purpose; it marked the fifteenth anniversary of Hitler's Munich Beer Hall Putsch, a holy day in the Nazi calendar.

This planned massive attack against the Jews in Germany signalled the institutional beginnings of what was to become the Holocaust. That it was carefully planned, scripted and executed appears from the following orders given to all Gestapo and SD district and sub-district offices that night by Reinhard Heydrich. It was headed:

Concerning: measures against Jews in the present night.

The relevant part of it reads as follows:

... the political leadership is to be informed that the German police have received the following instructions from the Reichsführer SS and Chief of Police, to which the measures of the political leadership should be adapted, appropriately:

- (a) Only such measures shall be taken as will not endanger German life or property, (i.e. synagogue burning only if there is no fire-danger to the surroundings).
- (b) Businesses and dwellings of Jews should only be destroyed, not plundered. The police are instructed to supervise this regulation and to arrest looters.
- (c) Special care is to be taken that in business streets non-Jewish businesses are absolutely secured against damage.

The Night of Broken Glass, honourable senators, stands as a metaphor for the dictum by Edmund Burke that all it takes for evil to triumph in the world is for good people to do nothing.

Good people did nothing.

In one ugly, horrific night, 267 synagogues were destroyed, some 7,500 stores were ransacked, 30,000 Jewish men were sent to concentration camps where virtually all of them were murdered and 91 Jews were killed on the spot.

The fact that the world stood by silently while this atrocity was taking place encouraged the Nazis to go further, as indeed they did.

• (1405)

A good friend of mine in this chamber asked me some time ago, when I made a statement about the Holocaust, why I and other Jews continue to live in the Holocaust. My response was that I and other Jews do not live in the Holocaust but the Holocaust continues to live in us.

I feel compelled, therefore, to raise my voice and to commemorate events like Kristallnacht and the Holocaust, not so much because they occurred or because they are permanent stains which remain on the fabric of humanity, but to draw attention to the fact that genocide, the denial of human rights both yesterday and today and the deprivation of basic needs continue to happen each and every day. They happen far away, in places like Africa, in countries whose names we cannot pronounce, and much closer to home, to human beings who talk, breathe and feel just as we do.

Honourable senators, as parliamentarians, we use our offices to draw the attention of the public to these atrocities. Perhaps we can do no more than that, but certainly we can do no less.

#### ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY

FALL 2008 TORONTO CONFERENCE

**Hon. Consiglio Di Nino:** Honourable senators, this September I had the honour of chairing the OSCE Parliamentary Assembly meetings in Toronto. I am happy to share some of the feedback we received.

U.S. Congressman Alcee Hastings and Senator Benjamin Cardin, the Co-Chairmen of the Commission on Security and Co-operation in Europe, also known as the United States Helsinki Commission, wrote:

The conference was extremely well organized and well attended. You and your colleagues on the Canadian delegation are to be complimented for the efficiency and effectiveness with which all aspects of the meetings were conducted. This fall conference was also one of the most substantive to date . . .

Mr. Spencer Oliver, the Secretary-General of the OSCE PA wrote:

The Toronto meeting was one of the best, perhaps the best, meeting that the OSCE PA has ever held. The organization was superb, everything seemed to work exactly as planned, on time, efficient, and in a warmly welcoming atmosphere. . . . You have set a standard that will be hard, if not impossible, for future hosts to match.

Honourable senators, both Senator Grafstein and I are very active in this association and certainly contributed to the event. However, these accolades belong to the competent and professional parliamentary staff that planned and conducted the conference. These individuals include representatives from the Library of Parliament, security, media relations, my own staff and, in particular, the International and Interparliamentary Affairs Protocol Office, led by Ms. Elizabeth Rody. These professional men and women are truly an asset to the Parliament and must be recognized and commended. I take this opportunity to publicly thank all of them for their efforts which made this conference such a success.

In terms of participation, the OSCE PA fall meetings were one of the best attended yet, offering Toronto and Canada a chance to showcase all that we have to offer in this great country. Over 400 delegates from 52 countries travelled to Toronto to attend the fall meetings. The economic footprint from this event was and will continue to be felt in the region as participants continue to return to this unique and welcoming city and our country.

I am grateful to everyone who was involved.

[Translation]

### SUICIDE PREVENTION

**Hon. Dennis Dawson:** Honourable senators, on October 28, I participated in a rally with hundreds of people from across Canada. This rally was part of the Canadian Conference on Suicide Prevention, which was being held in Quebec City. The purpose of this rally was to deliver a suicide prevention declaration, initiated by the Fédération des Cégeps, to the Canadian Association for Suicide Prevention and the Association québécoise de prévention du suicide.

In the gallery today are Lorna McFarlane and Renée Ouimet, representatives from the Canadian Association for Suicide Prevention, and Bruno Marchand, from the Association québécoise de prévention du suicide.

Everyone who participated in the rally, and all those who signed the declaration, refuse to keep losing loved ones to suicide over and over, day after day, year after year. They refuse to accept this fate, and want to make changes.

In Canada, suicide is not an option.

• (1410)

Honourable senators, I wish to read the declaration that was adopted during the convention:

Whereas today and every day, 10 or more of our fellow citizens will die by suicide, joining the more than 36,790 Canadians who have died by suicide during the last 10 years and that these deaths have resulted in more than 500,000 people bereaved by these suicides;

Whereas suicide is a major cause of death in Canada and it affects all regions of the country;

Whereas we believe that through concerted, coherent and intensive action, we can combat this curse by making sure that all people in need have access to the necessary resources;

Whereas we do not want suicide to take away any more of our fathers, mothers, brothers, sisters, sons, daughters, other relatives, friends, colleagues, neighbours or students;

Whereas we believe that when it comes to suicide, education and awareness are everyone's responsibility.

If we take a stand, we can make a difference.

We must tell people: "You are important to us. Suicide is not an option."

[English]

If I may, honourable senators, make the same statement in English.

Whereas today and every day 10 or more of our fellow citizens will die by suicide, joining the more than 36,790 Canadians who have died by suicide during the last 10 years;

Whereas these deaths have resulted in more than 500,000 people bereaved by these suicides;

Whereas suicide is a major cause of death in Canada and it affects all regions of the country;

Whereas we believe that through a concerted, coherent and intensive action we can combat this curse by making sure that all people in need have access to the necessary resources;

Whereas we do not want suicide to take away any more of our fathers, mothers, brothers, sisters, sons, daughters, other relatives, friends, colleagues, neighbours or students;

Whereas we believe that when it comes to suicide, education and awareness are everyone's responsibility.

If we take a stand, we can make a difference.

Therefore, let us join together and say to anyone who is thinking of suicide, "Please get help. You are important to us. Suicide is not an option."

This is a hard statement to make in this chamber or anywhere else. Even though this is a sensitive subject to listen to and talk about, I encourage honourable senators to share this statement with others. We cannot cure most sicknesses with mere words, but in the case of suicide it is crucial that we talk about it.

[Translation]

Please pass this declaration on to encourage dialogue about suicide. Just talking about it can save a life. I expect to talk more about this very soon. Honourable senators, you will each receive a copy of this declaration.

[English]

### NATIONAL CHILD DAY

**Hon. Ethel Cochrane:** Honourable senators, yesterday this chamber was alive with the music and voices of children as more than 250 local students came together to celebrate National Child Day. I was pleased to join with Senator Munson and Senator Mercer this year in helping to organize this wonderful event.

The theme of this year's event was "Striving for Success," and let me say that success was all around us yesterday. We were treated to many motivational presenters and performers.

Among them was Becka DeHaan, a visually impaired musician from New Brunswick who simply dazzled us with her performance. Joining her were 2008 Team Canada Olympic members, Angus Mortimer and Kristin Gauthier, who spoke with passion about the long road to reaching their Olympic dreams; and our keynote speaker, veteran CBC Sports broadcaster Scott Russell, who reminded us that on the pathway to success, it is the journey, not the destination, that matters most.

Honourable senators, I was especially pleased to present this year's Awesome Kid Award to Anthony Curkeet-Green. Despite living with autism, Asperger's syndrome, attention deficit hyperactivity disorder, a speech/language disorder and having been bullied, Anthony has blossomed both personally and academically. In addition to his studies, he currently shares his time as a counsellor-in-training at a local respite centre and he is also an assistant tae kwon do instructor.

He spoke of the importance of having self-esteem and how, as he said, "If you put your mind to it, anything is possible."

• (1415)

Honourable senators, this event was tremendously uplifting and inspiring. We have received heartening feedback from many of those who attended. I thank all the students, schools, presenters and performers who took part. To the staff members who helped with this special event, I offer my sincere thanks.

### THE LATE HONOURABLE RAYMOND JOSEPH PERRAULT, P.C.

**Hon. Joyce Fairbairn:** Honourable senators, it is with a combination of great sadness and pride that I speak today in memory of a long-time friend and vigorous member of this chamber. Ray Perrault passed away last weekend after a battle with Parkinson's disease. Many of us in this chamber had the privilege of working with this outstanding Canadian, who, with great pride, carried the flag for British Columbia throughout this country in an endless effort to put his province on the national stage. He was an awesome and lively speaker with a voice that shattered glass as it taught all of us about the strength and beauty of his far-off home province.

During his 43 years in public life, he led the charge of the Liberal Party in British Columbia and in Ottawa. He was elected to the House of Commons in 1968 as the member for Burnaby—Seymour. Ray won the election by overcoming the outstanding legend Tommy Douglas by 152 votes, earning the nickname "Landslide Ray."

Prime Minister Trudeau returned Ray to Parliament Hill by appointing him to the Senate, where he served as both the Leader of the Government in the Senate and, later, Leader of the Opposition. In 1982, he became Minister of State for Fitness and Amateur Sport. Throughout those years, Ray and his wonderful wife Barbara became very good friends of mine. Indeed, I had the pleasure of being his seatmate in this chamber, where, between debates, we shared endless stories of our beloved dogs, our love of baseball and our Liberal efforts in the two tough provinces of B.C. and Alberta.

We have lost a wonderful Canadian — a man of wisdom, kindness and laughter and with a great love for his province and his country. He was truly one of a kind, and his memory will live on forever.

### COMPETITION POLICY REVIEW PANEL REPORT

**Hon. Donald H. Oliver:** Honourable senators, I rise today to call your attention to the June 2008 report from the federal Competition Policy Review Panel entitled, *Compete to Win*. Created by our government on July 12, 2007, the panel's mandate was to review Canada's competition and foreign investment policies. Even before the world was hit with a global financial meltdown, our government had made our economy's survival and competitiveness a key issue. The report contains several critical recommendations to assist us in this time of financial turmoil; and the government is listening.

In last week's Speech from the Throne, for instance, our government stated:

... will proceed with legislation to modernize our competition and investment laws, implementing many of the recommendations of the Competition Policy Review Panel.

At the very core of the panel's report are the concepts of competitiveness and productivity. The report suggests that raising Canada's overall economic performance through greater competition will provide Canadians with a higher standard of living. One of the panel's recommendations for strengthening Canada's competitiveness is to focus on the promotion of two-way talent, capital and innovation flow between Canadian and world markets.

The Speech from the Throne states:

Our Government will also expand the opportunities for Canadian firms to benefit from foreign investment and knowledge, while taking steps to safeguard consumers and our national security.

The panel concluded that greater competitiveness intensity at home will translate into more success in world markets since a precursor to international success is to ensure that the domestic markets are healthy and that unnecessary barriers to entry are reduced or eliminated.

On that issue, the Speech from the Throne stated:

Our government will work with the provinces to remove barriers to internal trade, investment and labour mobility by the year 2010.

This step will better position Canada to compete for investment and market opportunities.

The panel's report gives us some practical advice: We must ensure:

. . . that our policies, laws and regulations are the right ones to facilitate growth.

The report continued:

. . . It is a national project. . . .

Further, the report stated:

It will not be quick or easy. But if we take on this challenge with the commitment and collective spirit that have enabled Canadians to overcome formidable obstacles and bring great national projects to fruition, the Panel has no doubt that we will continue building a Canada that we will be proud to bequeath to our children and grandchildren.

• (1420)

In conclusion, I bring this report to the attention of honourable senators today because it is timely given the financial global meltdown that all Western democracies are facing. This report has given us a roadmap to guide us through this crisis as Canada continues to produce quality goods and products that give us a competitive edge.

[Translation]

## ROUTINE PROCEEDINGS

### SPEAKER'S DELEGATION TO FRANCE

MAY 16-21, 2008—REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I ask leave of the Senate to table a report entitled "Report of the Visit of the Honourable Noël A. Kinsella, Speaker of the Senate, and a Parliamentary Delegation to France, May 16 to 21, 2008."

Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

[English]

## AUDITOR GENERAL

ACCESS TO INFORMATION ACT AND PRIVACY ACT—  
2007-08 ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table, from the Office of the Auditor General of Canada, the 2007-08 Annual Report on the Access to Information Act and the Privacy Act.

[Translation]

## THE ESTIMATES, 2008-09

SUPPLEMENTARY ESTIMATES (B) TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the Supplementary Estimates (B), 2008-09 for the fiscal year ending March 31, 2009.

[English]

## COMMITTEE OF SELECTION

FIRST REPORT OF COMMITTEE PRESENTED

**Hon. David Tkachuk,** Chair of the Committee of Selection, presented the following report:

Tuesday, November 25, 2008

The Committee of Selection has the honour to present its

### FIRST REPORT

Pursuant to rules 85(1)(a) and 85(2) of the *Rules of the Senate*, your committee wishes to inform the Senate that it nominates the Honourable Senator Losier-Cool as Speaker *pro tempore*.

Respectfully submitted,

DAVID TKACHUK  
*Chair*

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

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

## THE SENATE

NOTICE OF MOTION TO TELEVISION PROCEEDINGS

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

That the Senate approve in principle the installation of equipment necessary to the broadcast quality audio-visual

recording of its proceedings and other approved events in the Senate Chamber and in no fewer than four rooms ordinarily used for meetings by committees of the Senate;

That for the purposes set out in the following paragraph, public proceedings of the Senate and of its Committees be recorded by this equipment, subject to policies, practices and guidelines approved from time to time by the Standing Committee on Internal Economy, Budgets and Administration ("the Committee");

That selected and edited proceedings categorized according to subjects of interest be prepared and made available for use by any television broadcaster or distributor of audio-visual programmes, subject to the terms specified in any current or future agreements between the Senate and that broadcaster or distributor;

That such selected proceedings also be made available on demand to the public on the Parliamentary Internet;

That the Senate engage by contract a producer who shall, subject only to the direction of that Committee, make the determination of the programme content of the selected, edited and categorized proceedings of the Senate and of its committees;

That equipment and personnel necessary for the expert selection, editing, preparation and categorization of broadcast-quality proceedings be secured for these purposes; and

That the Committee be instructed to take measures necessary to the implementation of this motion.

• (1425)

[Translation]

## BANKING, TRADE AND COMMERCE

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY CREDIT AND DEBIT CARD SYSTEMS

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

That the Standing Senate Committee on Banking, Trade and Commerce be authorized to examine and report on the credit and debit card systems in Canada and their relative rates and fees, in particular for businesses and consumers; and

That the Committee report to the Senate no later than June 30, 2009, and that the Committee retain all powers necessary to publicize its findings until 90 days after the tabling of the final report.

[ Senator Segal ]

[English]

## THE SENATE

### NOTICE OF MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO HEAR PROGRESS FOLLOWING GOVERNMENT APOLOGY TO FORMER STUDENTS OF INDIAN RESIDENTIAL SCHOOLS

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

That, at 3 o'clock p.m. on Thursday, June 11, 2009, the Senate resolve itself into a Committee of the Whole in order to hear from Phil Fontaine, National Chief Assembly of First Nations; Patrick Brazeau, National Chief of the Congress of Aboriginal Peoples; Mary Simon, President of the Inuit Tapiriit Kanatami; and Clem Chartier, President of the Metis National Council, for the purpose of reporting on progress made on commitments endorsed by parliamentarians of both Chambers during the year following the Government's apology to former students of Indian Residential Schools.

[Translation]

## THE SENATE

### NOTICE OF MOTION TO URGE GOVERNOR-IN-COUNCIL TO PREPARE REFERENDUM ON WHETHER THE SENATE SHOULD BE ABOLISHED

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

WHEREAS the Canadian public has never been consulted on the structure of its government (Crown, Senate and House of Commons)

AND WHEREAS there has never been a clear and precise expression by the Canadian public on the legitimacy of the Upper House since the constitutional agreement establishing its existence

AND WHEREAS a clear and concise opinion might be obtained by putting the question directly to the electors by means of a referendum

THAT the Senate urge the Governor in Council to obtain by means of a referendum, pursuant to section 3 of the Referendum Act, the opinion of the electors of Canada on whether the Senate should be abolished; and

THAT a message be sent to the House of Commons requesting that House to unite with the Senate for the above purpose.

### THE TWO HUNDRED AND FIFTIETH ANNIVERSARY OF REPRESENTATIVE GOVERNMENT IN CANADA

#### NOTICE OF INQUIRY

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, pursuant to rule 57(2), I give notice that, two days hence:



I shall call the attention of the Senate to the 250th anniversary of the establishment of representative government in Canada.

[English]

## QUESTION PERIOD

### FINANCE

#### ECONOMIC DOWNTURN—GOVERNMENT SPENDING

**Hon. Terry M. Mercer:** Honourable senators, I wish to associate myself with the earlier remarks made by Senator Cochrane with respect to National Child Day. I thank His Honour for offering the use of this chamber for the events of yesterday and today. It was a wonderful couple of days in the Senate for children.

Speaking of children, the number of children in Canada living in poverty is astounding. What is even worse is that it seems the situation for children will only deteriorate. Many people, whether in the auto industry or the farming sector, are about to lose their jobs because of the state of the economy. It was reported today that food banks are overflowing not with food but with people looking for food, and there is a shortage of volunteers at those food banks.

The state of Canada's finances is in dire need of repair, and what does this Prime Minister do? Nothing. President-elect Obama, British Prime Minister Brown and most of the rest of the industrialized world is now offering help.

Just last month, the Prime Minister said "no deficit" and now it appears that a deficit is essential. Then the Prime Minister said that he wants to wait until February before he helps to stimulate the economy. When will the Prime Minister stop saying one thing, then another, and then doing nothing?

• (1430)

When will the Prime Minister offer help to Canadian families in the wake of this economic meltdown?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** I thank the Honourable Senator Mercer for that question. The honourable senator underlines some grave concerns that all Canadians feel about the consequences of the worldwide economic meltdown.

The honourable senator has asked what the government plans to do. I hasten to point out to the honourable senator that the measures being taken just this week in the United Kingdom are similar to measures taken by our government one year ago when we reduced the GST and took many steps to provide stimulus to the economy, steps which have been credited as contributing to the situation in Canada, which is not as dire as it is, perhaps, for some of our partners around the world.

Obviously there is grave concern in the country. We are not an island, as the Prime Minister and the Minister of Finance have said. As economists, journalists and people of all political stripes have fairly pointed out, the situation changes almost daily. The government is seized with the gravity of that evolution. We will do everything we can to ensure that Canadian families, businesses and individuals in general weather this economic storm. The Minister of Finance will be expanding on that subject at four o'clock on Thursday in his economic update.

**Senator Mercer:** The economic update is one thing, but then the Prime Minister has said that he is not willing to do anything to stimulate the economy.

The minister drew a reference to Britain and the reduction of their consumption tax. That really worked well here, didn't it? That is why the government is in such dire straits now and cannot respond quickly enough. The government has done away with the contingency fund. Tell that to the auto worker in Ontario or to the parts plant worker in Cape Breton who have either lost or are about to lose their jobs. Tell that to the farmer who cannot afford to get his products to market. Tell that to the student who must quit university because he or she does not have enough money to pay the tuition and whose support from parents has dried up. Tell that to the young persons who were in this chamber yesterday and went to school this morning in a snowstorm without boots on their feet because their parents could not afford to buy any as a result of losing their jobs in the economic downturn. Tell that to those people.

**Senator Comeau:** Take a breath.

**Senator Mercer:** Perhaps the next time our friend "Steve" walks his children to school he might check around the schoolyard to see who does not have a proper coat, mittens or boots because their parents have lost their jobs. Then the Leader of the Government in the Senate can talk about what is happening to Canadian families. Will this government get off its butt, do something now and not wait until February?

**Senator Comeau:** Get him to go with Iggy.

**Senator LeBreton:** Clearly, there are situations in this country that have developed as a result of this unprecedented, worldwide economic condition, which, as we know, started primarily in the United States with the sub-prime mortgage issue.

• (1435)

Last year, during the year-end interviews with the major Canadian newspapers and networks, the Prime Minister indicated that 2008 would bring difficult economic times. Certain people criticized the Prime Minister and some called him the "grinch that stole Christmas." Honourable senators, even today, the OECD reported that Canada is still in the best position in the industrialized world and will lead the G7 out of these difficulties.

The Honourable Senator Mercer knows that the government is not ignoring these serious issues. We have balanced three budgets and we have paid down \$37 billion in debt. That is not frittering away the surplus. That is returning Canadian taxpayers' dollars to their pockets for their use and not hoarding it in government. We have also indicated that there will be stimulus in the economy through the infrastructure programs.

Everyone wants to do his or her part to help Canadians weather this economic storm. I am sure that no Canadian wants to see any child go to school without proper footwear. The entire government wants to do everything possible to help Canadian families weather these difficult economic times. The government wants to do everything possible to ensure that Canadians are in a position to keep their jobs.

The situation in the auto industry is unique. Minister Clement is working with his provincial counterparts; he has met with the "Detroit Three," as they have now come to be known; and he is talking with officials in the United States. There is lack of clarity, even in the United States, as to exactly what to do with this sector.

As honourable senators know, these conditions are unprecedented and no one could have predicted them — certainly not the political parties in the election campaign who were promising \$60 billion in spending. Those parties obviously did not have any sense that things would manifest into this extreme situation. Clearly, the Minister of Finance will reflect some of these government plans when he releases his economic statement at four o'clock on Thursday.

**Senator Mercer:** Senator LeBreton has confused me, as well as some of my colleagues.

**Senator Comeau:** That is easy to do.

**Senator Mercer:** The Leader of the Government began by telling us how smart Stephen Harper was to predict the economic downturn. The honourable senator was referring to the Prime Minister's media interviews last year. However, a moment ago the leader said that no one could have forecast this economic downturn. Either the Prime Minister is smart or he is stupid. I do not understand. If he is so smart, why did he get rid of the contingency fund that could be helping us get out of this mess today? The Prime Minister got rid of the contingency fund that was put in place for just this very reason. If he foresaw the hard economic times, why did he get rid of the contingency fund? For once in his life Stephen Harper was right, but what did he do about it? He got rid of the contingency fund.

**Senator Comeau:** Take a breath — take a deep breath.

**Senator Mercer:** We have been told that Thursday's economic statement will not include measures to stimulate the economy. The Prime Minister has said he will wait until February to begin measures to stimulate the economy.

Honourable senators, people need this help today. People are being laid off today. People are going without food; people are going to lose their shelter; children will be going to school hungry and without proper clothing for the winter. People need help today; not in February.

If Stephen Harper is so smart, as the leader seems to indicate, then action needs to be taken in November, not in February.

• (1440)

**Senator LeBreton:** I indicated that the Prime Minister predicted at the end of 2007 that there would be some economic difficulty. No one in Parliament or anywhere could have predicted the rapid deterioration of the worldwide economy in October and November.

[ Senator LeBreton ]

The honourable senator speaks of the contingency fund. Our government acted early — in November of last year — to provide stimulus, which economists say has helped Canadians to weather this economic storm better than other nations to this point.

I remind the honourable senator that we prepared for this economic turbulence by paying down the debt by \$37 billion. To the taxpayers and citizens in this country, that payment has lessened the interest being paid on the debt. We provided stimulus through \$21 billion in permanent tax relief this year, equating to 1.4 per cent of the GDP. We have made key investments in job training, infrastructure and post-secondary education to assist those in occupations which perhaps will no longer offer viable opportunities in the future.

We acted to prevent U.S.-style mortgage bubbles in Canada. We took pre-emptive steps through this crisis to keep credit flowing. All of these efforts have contributed to our situation today. We have positioned our country in such a way — and the OECD is in agreement — that Canada, because of its policies, will be a leader out of this catastrophe.

More must be done, and the Prime Minister, in speaking on the weekend at the APEC meeting in Lima, Peru, and in Washington, D.C., at the G20 conference, has committed Canada to doing everything we possibly can, along with our partners in the world, to help turn around this grave economic condition, which has economists changing their forecasts almost on a weekly basis.

**Hon. Joan Fraser:** Honourable senators, this question is for the Leader of the Government in the Senate.

The Prime Minister and the Minister of Finance have both said that in their view Canada is in a "technical" recession. From the point of view of the thousands of Canadians who have lost, are losing and will lose their jobs, what is the difference between a real recession and a technical recession?

**Senator Stratton:** No growth in two consecutive quarters.

**Senator LeBreton:** A technical recession is, as Senator Stratton says, two consecutive quarters of no growth.

Honourable senators, I point again to the OECD, which today said that Canada will lead the recovery with the strongest growth among G7 countries in 2010. Governments globally are facing tough choices.

**Senator Mercer:** Tell that to the unemployed.

**Senator LeBreton:** We are in an unprecedented economic slowdown. As I said last week, we will not force a surplus if it is not in the economy's best interests.

• (1445)

The government and the Minister of Finance are trying to assist Canadians and Canadian businesses to weather this unprecedented economic condition as best we can. Honourable senators will have to await the economic statement from the Minister of Finance on Thursday at four o'clock, to obtain more information on how the government intends to deal with this matter.

**Senator Fraser:** I have a supplementary question. Way back when I was studying economics, two quarters of negative growth in the economy, which is a nice euphemism for “shrinkage,” was the definition of a “recession,” not of a “technical recession.”

I ask again: What is the difference? Does it mean that the people who are technically unemployed are not really unemployed?

**Senator LeBreton:** Honourable senators, the conditions that the country, but more importantly the world, faces are no laughing matter. The government, as I have said in answer to Senator Mercer, faces unprecedented pressures. Everyone knows that these pressures are global in nature.

While the situation in Canada is not perfect — far from it — recent reports indicate that we still have relatively good retail sales. Our auto sales went up in October. Even though we will feel the effects of the situation from our largest trading partner, the government will do everything possible to help Canadian families and businesses weather this difficult economic time.

In response to Senator Fraser, I believe that the Canadian public wants to do its part. I was watching a program that indicated people are being a little more careful with how they use their resources in terms of managing their household expenses. I think Canadians understand that this situation is difficult. No one could have predicted it and no one did predict it. The Canadian people want to do their part and they indicated, as a result of the election, that they entrust the management of difficult situations to the Prime Minister and his cabinet.

**Senator Cowan:** Just technically.

**Hon. Yoine Goldstein:** Honourable senators, my question is for the Leader of the Government in the Senate.

The purported distinction between a “recession” and a “technical recession” is a distinction without a difference. An unemployed person does not live on a technical cheque; children do not live on technical food; farmers do not live on an inability to bring their produce to market, and so on.

Senator LeBreton’s figure with respect to the sales of automobiles in Canada is, with great respect, incorrect. It was foreign-produced automobiles that increased automobile sales in Canada, and not domestically-produced automobiles.

Having said that, can the minister ask the Prime Minister not to use the double-talk, not to use the disguised phraseology, and tell Canadians what is, when it is and as it is so we at least understand what the government is or is not doing?

**Senator LeBreton:** I thank Senator Goldstein for the question. I did not say “domestic auto sales.” I said simply “auto sales.” I did not differentiate between “foreign” or “domestic.”

By the way, when we talk about the Detroit Three and foreign auto sales, Toyota and Honda have huge plants in Cambridge and Alliston, Ontario. I do not know whether Senator Goldstein would define that production as “foreign.” In any event, that is for him to decide.

• (1450)

That is exactly what the Prime Minister and the Minister of Finance have been doing and will continue to do. The Prime Minister has said all along that he will be forthright with the Canadian people, who understand that this is a serious worldwide economic condition. They entrusted the leadership of the economy to the Prime Minister and his government.

I assure honourable senators that the Prime Minister and the Minister of Finance will be levelling with Canadians on developments with regard to this situation, as they have in the past few months.

#### REGISTERED RETIREMENT SAVINGS PLAN— INCREASE IN AGE LIMITATION

**Hon. Norman K. Atkins:** Honourable senators, my question is to the Leader of the Government in the Senate. In the government’s wisdom it raised, in recent times, the age requirement to change RRSPs to RRIFs from 69 to 71. That was of tremendous benefit to many senior citizens in this country.

Will the minister, with her responsibility for seniors, consider making a recommendation to the Minister of Finance that he increase that minimum age to 75, especially when one considers the dire economic circumstances seniors are facing today?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** I thank the honourable senator for the question and welcome him back. Senator Atkins, it is nice to see you back in the chamber.

With regard to the transferring of RRSPs to RRIFs, Senator Atkins is quite correct. The government took the measure of changing the age from 69 to 71. Quite clearly, there is a great deal of concern amongst pensioners. I am receiving many emails on this subject, as are many of my colleagues on both sides of the chamber, I am sure.

It is important to note that there is no requirement for an individual to sell assets to make RRIF minimum withdrawals. The income tax rules permit in-kind asset transfers to meet minimum withdrawal requirements and they do not require the sale of assets.

As I mentioned last week, honourable senators, there is significant amount of misunderstanding and misinterpretation as to what this policy actually means. As a result, the Minister of Finance, on November 20, sent a letter to all financial institutions stating that he expects them, first, to accommodate such in-kind transfers, at no cost to clients, or some equivalent; and, second, to ensure that all RRIF clients are made aware of this option. It seems that some institutions have not done so, and this is what has caused some of the confusion. He has asked all financial institutions to confirm their compliance by November 28.

In answer to the specific question about changing the age limit again, this suggestion has been made by a great many to the Minister of Finance. I have no idea what his response will be. We will see when he issues his economic update on Thursday whether these recommendations have found their way into the statement.

One of the important things to point out to seniors, as I have been doing, is the tax-free savings account which comes into effect on January 1. Monies can be put into those tax-free savings accounts and remain forever beyond the reach of the tax man.

I thank Senator Atkins for the question. Seniors are quite rightly concerned about the situation.

• (1455)

**Senator Atkins:** I thank the minister for that answer. I encourage her, in terms of her responsibilities, to put her weight behind a proposal to the minister, because I think that would be of greater importance than him hearing from people on the street.

**Senator LeBreton:** I thank Senator Atkins for his suggestion. I have made my views known to the Minister of Finance. As we all know, many ministers are making representations to the Minister of Finance. At the end of the day, as I said earlier, he will seek to make the best decisions in the interests of Canadian families, seniors and business people in his economic update. I have nothing more to add other than I await his economic update on Thursday.

## NATIONAL REVENUE

### REGISTERED RETIREMENT INCOME FUNDS— REGULATION REQUIRING MINIMAL ANNUAL WITHDRAWALS

**Hon. Hugh Segal:** Honourable senators, I thank the minister for her response to Senator Atkins. I know that seniors have a strong and determined advocate in her and in her work every day.

It would be of great assistance if the minister might take under advisement the notion of a representation to the Minister of National Revenue. There is a specific regulation with respect to that transition from Registered Retirement Savings Plan to Registered Retirement Income Fund. The minister is completely correct in saying that there is no need to dispose of assets. However, the amount of capital that must come out of the RRIF as assessed is the 10-per-cent analysis made in January.

For example, seniors today who may have had a certain capital amount in January will have an obligation to take out of their account next year the equivalent of 10 per cent of the January number. We all understand this amount may be remarkably different from what the number is today.

I believe this matter is a regulatory one. We all understand that the federal government will be concerned about its fiscal balance in the circumstance. Therefore, it is not easy. However, any consideration that might be given to that issue, I am sure, would be much appreciated by the people for whom she speaks so eloquently.

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** I thank the honourable senator for his suggestion. I have had that situation explained to me many times by my new-found email companions.

[ Senator LeBreton ]

I am aware of that situation and I have made those pleas known to the proper officials. It is a difficult situation in terms of the value of people's portfolios. In economic situations like this one, there is no easy answer.

[Translation]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

#### MOTION TO CHANGE COMMENCEMENT TIME ON WEDNESDAYS AND THURSDAYS AND TO EFFECT WEDNESDAY ADJOURNMENTS ADOPTED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):**  
Pursuant to notice of November 20, 2008, moved:

That, for the remainder of the current session,

- (a) when the Senate sits on a Wednesday or a Thursday, it shall sit at 1:30 p.m. notwithstanding rule 5(1)(a);
- (b) when the Senate sits on a Wednesday, it stand adjourned at 4 p.m., unless it has been suspended for the purpose of taking a deferred vote or has earlier adjourned; and
- (c) when a vote is deferred until 5:30 p.m. on a Wednesday, the Speaker shall interrupt the proceedings, immediately prior to any adjournment but no later than 4 p.m., to suspend the sitting until 5:30 p.m. for the taking of the deferred vote, and that committees be authorized to meet during the period that the sitting is suspended.

Motion agreed to.

• (1500)

### SPEECH FROM THE THRONE

#### MOTION FOR ADDRESS IN REPLY— DEBATE ADJOURNED

The Senate proceeded to consideration of Her Excellency the Governor General's Speech from the Throne at the opening of the First Session of the Fortieth Parliament.

**Hon. Michael A. Meighen,** seconded by the Honourable Senator Champagne, moved:

That the following Address be presented to Her Excellency the Governor General of Canada:

To Her Excellency the Right Honourable Michaëlle Jean, Chancellor and Principal Companion of the Order of Canada, Chancellor and Commander of the Order of Military Merit, Chancellor and Commander of the Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

MAY IT PLEASE YOUR EXCELLENCY:

We, Her Majesty's most loyal and dutiful subjects, the Senate of Canada in Parliament assembled, beg leave to offer our humble thanks to Your Excellency for the gracious Speech which Your Excellency has addressed to both Houses of Parliament.

He said: Honourable senators, it is a great honour for me to present this motion.

Her Excellency's speech outlines a prudent, pragmatic approach to negotiating the sometimes difficult road we find ourselves on. It confirms that Canadians were right to put their trust in Prime Minister Stephen Harper in the recent election.

However, before I speak to the substance of the motion, I would like to congratulate Senator Kinsella on his reappointment as Speaker of the Senate.

His is not an easy task. I would like to take this opportunity to thank him for all his patience, impartiality and wisdom during the past session.

[English]

I also wish to thank the Leader of the Government in the Senate and Minister of State for Seniors, the Honourable Senator Marjory LeBreton, for her leadership and guidance here in the Senate, and for her unfailing efforts on behalf of Canada's seniors.

[Translation]

I would also like to thank our deputy leader, Senator Comeau, who ensures that the business of the Senate proceeds smoothly.

[English]

I congratulate the new Leader of the Opposition in the Senate, Senator Cowan, whom I have known for many years. Honourable senators on this side look forward to working with him.

Even though the honourable senator was not convinced to change the errors of his political ways, Senator Cowan came under the good influence of Senator Oliver when they practiced law together in the same firm in Halifax. Like Senator LeBreton, Senator Cowan has risen to the post of leader of his party in the Senate after serving as whip. Who knows, perhaps it is only a matter of time before Senator Stratton gets his chance.

**An Hon. Senator:** Not so fast!

**Senator Meighen:** In a more serious vein, those senators on this side owe Senator Stratton a great deal of thanks for the difficult job he carries out as the government whip, particularly as whip of a government in a great minority position.

[Translation]

I wish to extend a warm welcome back to Senator Tardif as the deputy leader. We are pleased to be working with you again.

[English]

I would like to congratulate Senator Munson in his appointment as opposition whip, which just goes to show that nice guys can end up in the strangest of places. Senator Munson is known not only for his former life as a prominent journalist, but also for highlighting the contributions and relevance of Canadians with special needs. Thank you, Senator Munson, for reminding us that our society, consciously or unconsciously, must never exclude anyone.

[Translation]

I would also like to point out the hard work put in by Senator Hervieux-Payette, who led the Liberal caucus in the last session of Parliament.

I know that we are all eager to work collaboratively with our colleagues opposite in order for our efforts to bear fruit.

Last of all, allow me to congratulate the Prime Minister on the renewed and strengthened mandate handed to him by the people of Canada.

[English]

Honourable senators, there is a special group of Canadians who also deserve our thanks. Two weeks ago marked the ninetieth anniversary of the end of the First World War, what many at the time thought was the war to end all wars. As Her Excellency reminded us in her Speech from the Throne, our young nation came of age on battlefields whose names still echo today: Ypres, Vimy and Passchendaele, the title of Paul Gross' excellent film which should be a must-see for all, particularly the young people of this country.

We owe a continuing debt of gratitude to all those who have served and to those who are now serving our nation. Our thoughts and prayers go out especially to them.

[Translation]

Honourable senators, it goes without saying that the issue uppermost in the minds of Canadians at present is the economy.

One year ago there were already signs of economic upheaval, and our government began to prepare its citizens. With the economic measures announced last fall, the government will have provided \$21 billion in additional tax relief for the current year alone, which has given quite a boost to our economy.

[English]

Indeed, from the beginning, we have worked to help Canada compete and to prepare Canadians for the next generation of work. We have invested in job training, in science and technology and, through transfers to the provinces, in post-secondary education. We improved financial assistance for students through the Canada Student Grant Program. We improved student loans. We made sure that lower income Canadians do not find themselves worse off by working rather than not working. We increased tax assistance to apprentices, we targeted assistance to key industries including the auto sector and, as I think the Leader of the Government repeated twice during Question Period, we paid down \$37 billion on the national debt.

However, honourable senators, while these measures have stood us in relatively good stead in the present economic circumstances and while our economic and fiscal fundamentals remain strong, events beyond our borders have quickly and dramatically shifted the economic landscape. We must ensure that this sudden economic decline does not turn into a prolonged downturn. That means that we must avoid the mistakes of the past.

Though I do not believe any honourable senators were around at the time, we should never forget that it was government response to the 1929 stock market crash that caused the Great Depression rather than the crash itself. Governments attempted to balance the books at all costs, raising taxes and cutting spending, at a time when fiscal stimulus was what was necessary. Our government is prepared to run a short-term deficit, if necessary, to stimulate the economy.

A further lesson from the 1929 market crash is that protectionist measures do not serve to support domestic industries but to smother them. As the Prime Minister pointed out this past weekend, Canadians understand that, as a trading nation, free and open markets are the best way to ensure that the global economy can quickly rebound from this period of economic instability.

Honourable senators, even though our banks have been rated as the strongest in the world, they, too, have been affected by what has become a global credit crunch. Recently, our government moved to boost the ability of our banks to lend, taking up to \$75 billion in mortgage loans off the books of Canada's lenders and ensuring borrowings by banks and other deposit-taking institutions. Neither of these two measures will cost the taxpayers a dime and may, in fact, contribute to the government's bottom line. This follows earlier measures to provide the Bank of Canada with new powers to deal with a crisis of this nature.

We also put an end to zero down-payment mortgages, helping to avoid the default nightmare which is now playing out in the United States.

Honourable senators, Her Excellency's speech outlined a broad agenda that does even more to prepare our economy for the future. It set out five core economic priorities.

The first concerns global finance reform, an area where our own experience will enable Canada to take a leadership role in the repair and strengthening of the international financial system. I was pleased to hear that the government will work with the provinces to put in place a common securities regulator, an initiative recommended by our Standing Senate Committee on Banking, Trade and Commerce in the 2006 report on consumer protection and which I know is dear to the heart of Senator Grafstein.

The second priority concerns government finances. As I mentioned earlier, under the current economic circumstances, it would simply not be responsible to commit to a balanced budget in the short-term at any cost. However, at the same time, this government will ensure sound budgeting so that Canada does not return to the days when, year after year, we had ongoing, unsustainable structural deficits. We must be certain that a return

to normal economic growth means a return to a balanced budget. The cycle that began in the late 1960s must never be repeated.

• (1510)

As Prime Minister Stephen Harper stated last week in the other place:

I think we can all agree that balancing the budget by raising taxes, by cutting essential government activity or by refusing necessary intervention in the midst of a global economic crisis would be a cure worse than the disease. We will have to act in the months to come while clearly ensuring that Canada does not return to ongoing or structural deficits.

Lawrence Martin noted in *The Globe and Mail* on November 20:

Deficits are where the puck is going to be for governments everywhere. It's only when the deficits are chronic and structural that they result in serious damage, and the government's planned spending cutbacks are to allay those concerns.

Honourable senators, I will be interested to see whether the opposition supports the tough but necessary hard decisions to be made public in the coming days.

I would remind those opposite that the Speech from the Throne signalled the government's desire for Parliament to offer its suggestions for areas of restraint, and in this regard I look forward to hearing their constructive alternatives.

Third, we must continue to secure jobs for families and communities by encouraging the skilled trades and apprenticeships, supporting workers facing transition and providing further support to the automotive and aerospace industries.

Fourth, we will expand investment and trade by modernizing investment, competition and copyright laws. At the same time, we will work with the United States to address shared challenges and pursue trade agreements, which we have done recently in Europe, Asia and the Americas.

I would like to remind honourable senators that this coming January marks the twentieth anniversary of the coming into force of the original free trade agreement with the United States, and the fifteenth anniversary of the coming into force of the North American Free Trade Agreement. As a trading nation, we depend heavily upon secure and open access to international markets generally, and to the United States in particular. The FTA and NAFTA, negotiated by the former Progressive Conservative government led by the Right Honourable Brian Mulroney, have served Canada extraordinarily well.

Fifth, the Throne Speech outlines our plan to make government more effective by reducing red tape, fixing procurement, improving the way we deliver programs and services and improving the management of federal agencies and Crown corporations.

Honourable senators, the Speech from the Throne also outlined other areas where the government will deliver results for Canadians, including securing our energy future by developing

our energy resources and pursuing cleaner energy supplies. This includes further development of our northern natural gas resources.

The government will ensure that Canada's regulatory framework is ready to respond should the provinces choose to advance new nuclear projects. We will tackle climate change and preserve Canada's environment by reducing greenhouse gas emissions by 20 per cent by 2020, a realistic goal that, unlike Kyoto, can be achieved.

We will set a goal to meet 90 per cent of our electricity needs through non-emitting sources by that same 2020 deadline. To protect our vital resources, we will ban bulk water exports.

Further improvements will be made to the Universal Child Care Benefit, to increase access to Employment Insurance maternity and parental benefits, and to provide more help for those who care for their loved ones with disabilities.

We will keep Canadians safe by strengthening the sentences for serious criminal offences, putting in place new rules for food and product safety, and introducing a new national security statement.

We will contribute to global security by ensuring that our foreign policy is based on Canadian values, rebuilding our forces with the best possible equipment, and, as we wind down our military presence in Afghanistan, transforming our work in that country to one of reconstruction and development.

We will build stronger institutions and move toward representation by population in the other place for British Columbia, Alberta and, close to my heart, of course, Ontario.

In conclusion, honourable senators, may I quote once again from Lawrence Martin's column, which I found so compelling, on November 20. He wrote as follows:

This was a safe document and while some may say you don't want timidity when all hell is breaking loose, you don't want rash action, either.

[Translation]

Honourable senators, on October 14, Canadians decided to renew — and strengthen — the Conservative government's mandate. The people of this country re-elected Mr. Harper because he heard them and listened to them. He proposed a realistic plan. He earned their trust.

We realize that Canadians decided to elect a minority government. I am convinced that the current government will assume its responsibilities to the best of its abilities, and that under the leadership of our Prime Minister, Canada will continue on its path and will come out of this period of economic instability stronger than ever.

**Hon. Andrée Champagne:** Honourable senators, I am very happy to be back in this chamber with all of my dynamic and conscientious colleagues.

[English]

I would like to begin my comments by thanking our esteemed Speaker, Senator Kinsella, for his hard work and level-headedness during the previous — sometimes spirited — Parliament.

On this side of the chamber I welcome back our leader, Senator LeBreton, our deputy leader Senator Comeau and our whip, Senator Stratton. I have no doubt that you will all continue to serve our Conservative caucus very well, as you have during the past few years.

[Translation]

I am pleased to see that Senator Tardif is back as Deputy Leader of the Opposition.

[English]

I congratulate Senator Cowan for his appointment as Leader of the Opposition. I also offer my congratulations to Senator Munson, as he steps into the sometimes difficult position of whip. I know he will bring much to the job.

[Translation]

Honourable senators, it is an honour for me to second Senator Meighen's motion on the Speech from the Throne.

These are very interesting times we are living in. In recent weeks, the international economy has been on a roller-coaster ride with moderate highs and staggering lows. The credit markets are tightening up, thereby cutting access to the money needed to stimulate the economy. This lack of funds has led to decreased growth, and as we saw during the American election, protectionism is slowly beginning to cast its shadow.

Companies and organizations are not the only ones suffering from the economic fallout of the worldwide crisis. Families are ultimately bearing the burden of the cutbacks and unemployment. From coast to coast, Canadians are suffering the severe consequences of global economic uncertainty.

[English]

Last month, in the midst of this upheaval, our fellow citizens chose to send a strengthened Conservative government here to Parliament Hill. It was a clear signal for certainty and pragmatism, which is precisely what this government has delivered and will continue to deliver.

It was a call for initiatives that will help boost our economy as the world appears to be slipping into recession. It was support for a stable and careful plan; the only responsible way to respond to global instability.

It was on this plan that the Conservative Party campaigned. It builds on measures taken during the previous Parliament. You are familiar with them, of course, measures such as reducing the GST by 2 per cent, cutting taxes for small- and medium-sized businesses, shoring up our mortgage market and giving the Bank of Canada additional tools to respond to credit and liquidity pressures.

We made decisions a year ago, in anticipation of the economic difficulties that are now upon us, that will provide \$21 billion tax relief for consumers, families and businesses this year alone.

We have kept the economy on the rails because, as the Prime Minister said in Halifax, on September 12, 2008:

Since taking office, we've charted a consistent course on economic and fiscal policy. We said, from the beginning, we would make affordable tax reductions, reduce the national debt, and keep spending under control and focused on results. In each of our budgets, that's precisely what we've done.

This approach reflects our clear conviction, as Conservatives, that low taxes, less debt and controlled and effective spending at the national level are key to the long-run success of any economy.

[Translation]

• (1520)

Lest anyone wonder whether our campaign would be based on these principles, the Prime Minister eliminated all doubt on September 10, when he said the following to the Indo-Canada Chamber of Commerce:

In this election, we are asking the Canadian people to confirm our economic plan and direction, so we can continue leading this country forward at a time of global economic uncertainty.

During the campaign, we put forward a substantive plan and announced measures to guide our country along a steady course to enhance our competitiveness and attract better and higher-paying jobs.

[English]

As we heard last week in the Speech from the Throne, we are sticking firmly to the task of ensuring that the fundamentals of our economy remain strong.

[Translation]

As the Governor General reminded us:

A strong fiscal foundation is not an end in itself, but it is the bedrock on which a resilient economy is built. Responsible budgets, significant debt repayment, and declining corporate and personal income taxes have provided an important competitive advantage. As Canada navigates today's economic uncertainties, it is even more important that we keep our sights fixed on responsible fiscal management.

[English]

We are continuing to support small businesses — the engine of our economy. During the previous Parliament, we reduced the small business tax and raised the eligibility threshold for the small business income tax rate, as well as the lifetime capital gains exemption. In this Parliament, our intent is to further raise the small business eligibility threshold and to index the lifetime capital gains exemption to inflation.

[ Senator Champagne ]

These initiatives will encourage entrepreneurship by rewarding risk. We are well aware that small business owners put everything they have into their businesses every day and that they need to be supported in practical and efficient ways. In addition, the Conservative government plans to reduce the paper burden for small business.

[Translation]

We know that for many small-business owners, their business is both their retirement plan and an inheritance they will leave for their children.

We have committed to improving the competitiveness of Canadian businesses internationally. We will thereby increase the threshold for foreign investment reviews to attract more foreign investment, provided that investments are of net benefit to Canada.

[English]

On the other side of the coin, we hope to push for Canadian companies to receive better access to investment opportunities beyond our borders. We know that Canadians are among the best and the brightest, and we want to ensure that they have every opportunity to show it. These initiatives will help to make Canadian businesses compete more effectively by levelling the playing field and by protecting Canadian consumers.

[Translation]

The Conservative government did not delay in taking action regarding another issue that Canadian consumers are very concerned about: food labelling.

We want to ensure that Canadians are better informed and know the origin of food that is purchased from around the world. As a result, not only will consumers have better protection, but Canadian farmers and processors will have the opportunity to market their products, which are among the best in the world.

We also want to ensure that accuracy in labelling applies to all consumer goods. As was done with food products, the use of the "Product of Canada" label will be restricted to consumer products where both the contents and processing are Canadian. Qualified "Made in Canada" labels will be used for consumer products that are processed in Canada, but contain imported content: for example, "Made in Canada from imported contents."

[English]

Closely tied to this initiative, of course, is the Conservative plan for stronger consumer product safety legislation. This will provide for more inspection and testing of food, toys and consumer products to ensure that dangerous products are swiftly recalled. Our government will also undertake an independent investigation of the listeria outbreak that took place this summer, and will quickly act on its findings.

[Translation]

In either official language, our ultimate goal is still to protect Canadians — men, women and children.



Finally, I would like to say that I am delighted that our government has committed to move forward with amendments to the Copyright Act. Increased protection of intellectual property is good news for Canada's arts community, among others. I am very pleased with the approach chosen by our newly elected Conservative government.

On motion of Senator Cowan, debate adjourned.

[English]

## BANKRUPTCY AND INSOLVENCY ACT

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

**Hon. Yoine Goldstein** moved second reading of Bill S-201, An Act to amend the Bankruptcy and Insolvency Act (student loans). —(*Honourable Senator Goldstein*)

He said: Honourable senators, the global financial crisis reminds us yet again that Canada's competitive advantage is due, in no small measure, to the access afforded to Canadians to our first-class post-secondary education system. We must continue to ensure that the conditions to access student financial aid are fair and balanced and that there are no barriers to the growth of a highly educated workforce.

When I first introduced a very similar bill in the Thirty-ninth Parliament, I stated that post-secondary education is, in many ways, invaluable, but it does not come cheaply. Indeed, as tuition fees have grown, students must increasingly call upon the support of government loans to acquire the education they need to find employment in this increasingly knowledge-based economy.

Student debt is an inescapable reality for many young Canadians. It is imperative that our government adopt a practical and compassionate approach when dealing with individuals who have trouble repaying their student loans.

At present, bankruptcy legislation does not permit former students experiencing extreme financial difficulty to apply to be discharged from their student loans until many years have passed since they left school. This rule applies even if it becomes clear much earlier that a former student is unable to repay the loan and will not be able to do so in the foreseeable future. As a result, potentially hundreds of young Canadians have been forced to suffer unreasonable financial hardship because of loans obtained in good faith that they are unable to repay because of circumstances beyond their control.

Bill S-201 amends the Bankruptcy and Insolvency Act to permit former students experiencing extreme financial difficulty to be discharged from their student loan debts in bankruptcy proceedings. This provision will assist young Canadians who borrowed money to pay for post-secondary education but are unable to repay those loans, whether because of a change in the job market, illness, disability or personal crisis.

Canada's competitiveness in a global economy depends in large measure on the knowledge and skills of its citizens, especially given the growing portion of advanced technology. A highly trained workforce increases Canada's productivity, drives

innovation and attracts foreign investment. An educated workforce benefits the Canadian economy and Canadian society as a whole.

• (1530)

According to Industry Canada:

Human capital has a crucial role in the knowledge economy — skilled and educated workers are needed to maximize the benefits of the new technologies.

The Canadian Chamber of Commerce recently released a report which stated that, by 2010, 75 per cent of all new jobs created will be highly skilled, meaning that those without skills will be hard pressed to find work. By 2010, only 6 per cent of jobs will be open to those with less than a high school diploma. The report begins by stating plainly and clearly:

There is a skilled labour shortage facing Canada.

Improving access to post-secondary education is the key way to meet this demand. When asked how to address the problem of worker shortages, many firms respond that increased funding for education, along with more financial assistance for students, would help alleviate the shortage, because the high cost of post-secondary education is a barrier for many potential students.

In fact, the cost of post-secondary education in Canada has risen dramatically over the past 20 years, with the average annual cost of university and college fees more than tripling between 1990 and 2005. Professional schools experienced the most dramatic tuition hikes, with the cost of medical school in Ontario, for example, skyrocketing 500 per cent from under \$3,000 in 1989-90 to roughly \$15,000 in 2003-04. For many families, these costs are prohibitive, and students are forced to borrow money if they wish to attend college or university.

Not surprisingly, rising tuition costs have been accompanied by growing levels of student debt. The rules regulating access to student loans have been relaxed through a number of measures. Consequently, more students are borrowing more money to finance post-secondary education. From 1990 to 2006, the proportion of Canadian undergraduates with debt at graduation rose from 45 per cent to 59 per cent, and the average debt load for undergraduates with loans more than doubled from \$11,636 to \$24,047.

In 2003-04, government student loans were the second largest source of funding for post-secondary students, covering approximately 19 per cent of their costs. In 2005-06, the Canada Student Loans Program loaned roughly \$1.9 billion to 350,000 post-secondary students. Its total outstanding loan portfolio that year was \$8.2 billion owed by 990,000 current and former students.

Honourable senators, more assistance is needed to help students pay for post-secondary education. However, in addition to improving access and funding, we need to make sure that other types of legislation do not discourage young people from pursuing post-secondary education. Even if measures are taken to reduce student expenses and provide new kinds of financial support, it is likely that government student loans will remain an important source of funding for university and college students.

The large number of Canadians affected by student debt and the growing size of the average student loan, make it essential that a rational, yet compassionate, approach be adopted in dealing with former students who find themselves absolutely unable to repay the money they have borrowed.

Data is beginning to emerge that high debt levels affect the choices that people make after they graduate from school. For example, college and university students might complete one degree or diploma but then decide not to pursue further studies if they already have a lot of debt. Studies have shown that students who go on to graduate or to professional schools usually have much less debt than those who stop after one degree. This finding suggests that student debt could be preventing Canada from having more highly skilled workers such as doctors and engineers. There are also significant concerns about equity, since those from wealthier backgrounds are presumably more likely to complete their education without amassing significant debt and are then more likely to continue their studies.

Honourable senators, student debt will not disappear, and the way the government deals with students who borrow money to invest in post-secondary education matters a great deal. Bankruptcy is supposed to provide individuals and businesses with a way of dealing with debts they cannot pay back and permitting them to eventually “start over” so they can, once again, play an active role in the economy and the social fabric of this country. Bankruptcy allows individuals, entrepreneurs and investors to cope with the risk inherent in any business venture by allowing them to be freed from their debts if an entrepreneurial venture does not turn out as planned. Without the last resort availability of bankruptcy, people would be much less willing to take financial risks or invest their money in new ventures, which would greatly inhibit economic growth.

Similarly, when students borrow money to pay for post-secondary education, they are taking a risk by investing in something that is likely, but not guaranteed, to benefit them and society. Student borrowers should have the right to declare bankruptcy in a timely fashion, just like other investors, and be relieved from their debts, just like any other investor.

However, despite the importance of providing individuals with a means of “starting over,” and notwithstanding the benefits of using bankruptcy to help investors cope with risk, student loans are treated differently than any other kind of loan in bankruptcy proceedings. Unlike, for example, a small business owner who has borrowed money, a former student cannot be freed from a government student loan in bankruptcy proceedings until he or she has been out of school for seven years. If an individual with a student loan is negatively affected by a dramatic change in the job market, or if the individual suffers a personal catastrophe of some kind, few options are available to that person once interest relief and debt reduction programs have been exhausted.

In conducting research for this bill, I discovered stories about young Canadians who have had personal misfortune compounded by financial difficulties relating to the repayment of student loans. For example, there are young Canadians who have graduated from college or university with significant debt, only to be diagnosed with a terminal illness and told they cannot work to earn a living. These people have subsequently gone into default on their loans and then have been harassed by collection

agencies, even though it is clear to all parties that circumstances beyond anyone's control have made repayment impossible for those borrowers. Under the current law, these unfortunate individuals are trapped by circumstances, with no hope of escape. This bill would help those people by allowing them to apply to be relieved of their loans at any time.

Honourable senators, in 1998, a rule prohibiting the discharge of student loan debts in bankruptcy for 10 years after the holder left school was enacted by an amendment to the Bankruptcy and Insolvency Act. There was no consultation, review or explanation for this change other than the apparent belief on the part of lenders that student borrowers would go into bankruptcy shortly after graduation in order to avoid repayment of their student loan debt.

Despite this perception, which is mistaken, one thing has become clear over the past 10 years, and this is essential for an understanding of the philosophy behind this proposed bill: There is absolutely no evidence at all that students have been abusing the bankruptcy process to rid themselves of student debt.

However, looking at bankruptcy legislation in connection with student loans, one would think that abuse has occurred. This is not the case. The research is clear and consistent: Abuse of the bankruptcy process is not a factor in the non-reimbursement of student loans.

In fact, more recently, the restriction for the discharge of student debt has been reduced to seven years. Yet, there remains no option for former students, when they are experiencing extreme financial difficulties beyond their control, to appeal to the court to have their student loans included in the bankruptcy proceedings.

Bill S-201 would reduce the amount of time before which student loans can be discharged in bankruptcy proceedings from seven years to five years. It would also create a new provision that would allow persons experiencing severe financial hardship to apply for a court order, before the expiry of five years, to relieve them from all or part of their student debt. Before granting such relief, a judge would consider the former student's behaviour and other options, and a set of criteria is specifically spelled out in the bill.

• (1540)

By allowing student loans to be included in bankruptcy after five years from the end of a student's studies, Bill S-201 balances the need for graduates to take responsibility for their obligations and the need for Canadians to be freed from unbearable debt within a reasonable period of time. Allowing those facing exceptional circumstances to apply for a court order at any time also ensures that no Canadian will suffer undue and unreasonable hardship because of student debt.

Honourable senators, the previous version of this bill attracted observations, predominantly from Senator Di Nino and Senator Tkachuk. The present version of this bill takes into account those observations by providing that student loans remain non-dischargeable for five years, barring exceptional circumstances, and providing for specific criteria that a judge must take into account if he or she is to reduce or eliminate a student loan, ensuring that there should be no abuse.

This bill, honourable senators, is compassionate and timely. Given the rise of the cost of post-secondary education and the growing levels of student debt, especially in this economy, this bill is essential. It is premised on the notion that it is in the interests of all Canadians for students from all backgrounds to pursue post-secondary education without the deterrent of a potentially disastrous and very long-term burden. Accordingly, the small minority of people for whom the investment does not pay off should not be unfairly penalized and prevented from making a “fresh start” at a key time in their lives. George Peabody once described education as a debt due from present to future generations. This bill will help ensure that borrowing money today to pay for post-secondary education will never create a crippling financial albatross from which former students cannot be freed until very far in the future.

Honourable senators will recall that I have already had the privilege of presenting a form of this bill for your esteemed consideration. I propose to present it again for review by the Banking, Trade and Commerce Committee during the Fortieth Parliament, with the hope that we will be able to move forward collaboratively and build upon the work that has already been done.

**Hon. Bert Brown:** The honourable senator’s bill is commendable, and I wish it all the success possible. My question stems from both his and my childhood, when we were expected by our parents — at least, my parents expected it of me, as did many other parents — to work at something virtually every day, at menial tasks. Since these two generations have passed, it seems to me that we have created many highly skilled, technical people, but we have left behind a massive number of people who are neither highly skilled nor technically skilled. I am wondering where this is going and if the honourable senator has given any thought to what we might do for those who do not go on to post-secondary or university education.

I ask this question because my wife and I are campaign co-chairs of Olds College in Alberta. It was an agricultural college and is now branching into other areas. We have actually brought, I believe for the first time ever, a high school into a college campus. That move allows students to take courses in what one might call lower-level professions as opposed to highly skilled professions; for instance, welding and carpentry. Students receive college credits for taking these courses while they are in high school, so that they literally come out of high school prepared to get a job and to make a living.

However, I am concerned about the focus that we have on highly technical education and high-tech jobs. I do not think we can place the vast majority of our student population in that type of job.

It is not intended to be demeaning to say that someone might work at a lower-level job. In fact, I am reading a book right now by Tim Russert, one of the greater voices in American media. It is about him, his father and his son. Russert says in his book that there is no unskilled labour and that everyone must have some kind of skill to do some kind of job. His father at one time was a garbage collector and ended up, over a period of years, becoming manager of a whole department in a small city in New York.

I mention that in the hope that someone would think about that perspective in terms of our population in North America. We seem to be going down a road that requires more and more technical expertise, but that allows us fewer and fewer jobs.

**Senator Goldstein:** I thank the honourable senator for the question and for the observation. I congratulate him for the work he is doing with his wife. That is certainly very commendable and important work.

I would suggest the following: First, it is important to note that what we loosely refer to as “technical education” is an education which is covered by the Canada Student Loans Program. People who wish to proceed to gain a skill, even a basic skill in areas like carpentry and plumbing, people such as electricians and others, are qualified to borrow money for purposes of being able to follow that pursuit. The honourable senator is perfectly correct that the economy may not be able to absorb a host of 97 per cent of Canadian geniuses. Maybe the economy needs — and I am sure it does — people who are somewhat less genius.

That leads to two observations. The first observation is that university education here is still not free. Fifty years ago I went to France and studied there for three years. I obtained a master’s and a doctorate, and both degrees cost me the equivalent of nine Canadian dollars. There is much to be said for the proposition that Canada should have free post-secondary education. However, that is a debate for another day, and it involves, as the honourable senator is certainly aware, a variety of constitutional issues.

It is nevertheless true that those students, be they university graduates, non-graduates or technical school graduates who have borrowed money and are unable to pay it back — who are really unable to pay it back — should be relieved of their debt so that they can once again become useful, meaningful members of the society in which we live, and contributors to the economic health of this country.

I thank the honourable senator very much for his observations.

On motion of Senator Tkachuk, debate adjourned.

• (1550)

## ANTI-SPAM BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Yoine Goldstein** moved second reading of Bill S-202, An Act respecting commercial electronic messages.—(*Honourable Senator Goldstein*)

He said: Honourable senators, as I remarked last May during the previous Parliament when introducing this bill, the world marked a rather inauspicious anniversary at that time, namely, the thirtieth anniversary of the sending of the first spam email message. In the intervening 30 years, spam messages, more technically known as “unsolicited emails,” have progressed from being a minor nuisance to becoming a serious threat to the integrity of e-commerce, a significant drain on corporate resources and productivity and a vehicle for a wide range of criminal activities.

Although the word “spam” technically refers to any unsolicited email message, this bill concerns unsolicited commercial messages, namely, those that promote products, goods, services, investment or gaming opportunities. It is these commercial messages that account for the vast majority of spam traffic and that sustain spammers by providing them with significant profits. Commercial spam is also the most straightforward for government to deal with since its commercial nature means that it is not protected by freedom of speech.

Honourable senators, Canada is the only G8 country that does not have anti-spam legislation. As recently as yesterday, the Privacy Commissioner of Canada, Jennifer Stoddart, speaking in Vancouver, bemoaned the fact that Canada has no anti-spam legislation. Although an anti-spam task force was established under a previous government and came up with an excellent and comprehensive report, we have not followed through with any legislation. Even the public firestorm set off this summer by Bell and Telus revealing that they would begin charging 15 cents for each incoming text message for clients without a fixed-rate texting plan failed to sway government authorities, despite the fact that much of the public anger stemmed from the fact that spam now constitutes a huge portion of the text messages received by cell users.

Some years ago, Honourable Senator Oliver repeatedly introduced anti-spam bills which, although they proceeded from a different principle than those followed in this bill, were nevertheless a bold and useful attempt on his part — for which he deserves congratulations — to attempt to control and discourage the spam that plagues our country every bit as much as it plagues every other country where the use of Internet and email is generalized.

Trying to deal with spam generates a host of problems. Much spam is generated extraterritorially; that is, outside of Canada. Some messages that some would consider to be spam would be considered by others to be legitimate advertising. Issues of freedom of speech and freedom of expression arise. Political activity could be compromised by too stringent a piece of legislation, but too permissive a piece of legislation would have virtually no effect because spammers, whatever else may be said about them, are a creative bunch.

We all know what spam is. Although the Senate filters a tremendous number of spam messages, some nevertheless make it through, and we have all been solicited to buy Viagra at bargain prices on the web or via email.

We have all received a goodly number of plaintive emails, predominantly from Nigeria, but from elsewhere as well, telling us that the sender is an orphan or the widow of an oil minister who died in unexplained circumstances. They speak of leaving a bank account in a secret place containing many millions of dollars. They tell us that our cooperation is required to transfer the money to a safe haven like Canada and, in exchange, we will receive 20 per cent, 30 per cent or 40 per cent of those millions.

Those few who are foolish enough to respond end up providing bank account information and various pieces of other personal information that allow the sender to raid the bank account, withdraw virtually all the money and then, of course, disappear.

While many of us may not consider spam to be a significant challenge to deal with, it imposes massive costs at the global level. Depending on which source one uses, somewhere between 75 per cent and 95 per cent of all email sent in 2007 was spam. That figure is up from 10 per cent in 2000. In concrete terms, roughly 120 billion spam messages are sent each day, give or take a billion or two.

To protect consumers from this ever-increasing flood of messages, Internet service providers, ISPs, have been forced to spend vast amounts of money — for which the consumer pays — to purchase the latest email-filtering services and to upgrade their bandwidth so that the flow of spam does not overload the service. The global email security market alone is now estimated to be worth more than \$5 billion annually.

In addition to costs to ISPs, spam also creates significant costs for businesses and individuals in terms of increased costs for Internet services, reduced productivity and losses from fraud.

Studies have estimated that having employees spend only 15 minutes a day dealing with spam messages can cost businesses an average of \$3,200 per worker per year in lost productivity. In 2003, the Organisation for Economic Co-operation and Development estimated that spam costs \$20.5 billion in lost productivity worldwide each year. That figure has certainly increased since that time.

Fraud committed through spam also imposes significant and growing costs. Recent years have seen a massive increase in so-called “pump and dump” activities. These are schemes whereby false stock tips are distributed via spam to drive up the price of a stock so that the original holders can sell at a profit. One such incident that took place last summer involved the sending of over 500 million messages encouraging investors to buy into an obscure U.S.-based firm. Investors who fell for this kind of scam would typically lose about 8 per cent of their investment in the first two days and would lose the rest of it a number of days thereafter.

Even more worrisome are “phishing” attacks whereby users are sent misleading emails that lure them to a phoney website that impersonates the site of a trusted business. Usually, but not always, it is a bank or a supposed bank. Perpetrators of these attacks do so in the hopes that users will be duped into entering their account numbers and passwords. Such attempts have grown remarkably common in recent years, with total losses estimated at over US\$630 million in 2005-06, with each incident costing an average of US\$850.

Finally, the negative impact of spam email threatens the viability of the Internet as a method of commerce. A study by *Consumer Reports* found that concerns over identity theft had made 25 per cent of the respondents stop shopping online, and 29 per cent had reduced the number of online purchases they made. With figures from Statistics Canada showing only one in three Canadians aged 16 and over making online purchases in 2007, Canadian companies will not be able to reap the full benefits of the Internet unless and until consumer confidence is restored.

There are two schools of thought with respect to regulating spam. One school of thought envisages a system whereby each person, business or group is free to send unsolicited commercial

emails to any recipient they choose, provided that the messages that are sent contain a tool by which the recipients can advise senders of commercial email that they do not wish to receive further commercial emails from that sender. That strategy is called the “opting-out” approach, and it serves as the foundation of anti-spam efforts in the United States.

Unfortunately, while apparently sound in theory, the opting-out approach has proven to be highly ineffective in practice because sending an opting out message to a spammer does nothing other than confirm that a recipient’s email address is valid and active, resulting in a large increase in the volume of spam received at that account. That, indeed, has been the American experience, and as a result their anti-spam legislation has failed.

• (1600)

The opposite mechanism, “opting in,” prohibits the sending of unsolicited commercial electronic messages to any recipient unless that recipient has previously consented to receiving these messages or, in some circumstances, is deemed to consent to receiving the messages. This opting-in approach is the foundation of the Australian Spam Act, which is universally held up as a model piece of legislation.

The bill that I propose adopts the opting-in approach. The sending of commercial messages is generally prohibited unless the intended recipient gives prior consent to receiving them. There are some exceptions to that rule. To avoid stifling freedom of expression and to avoid stifling activities with charitable objectives, for instance, the bill exempts a variety of people and institutions from the obligation to obtain prior consent.

These institutions include political parties, political nomination contestants, leadership contestants, candidates of political parties, registered charities or other not-for-profit organizations, or educational institutions and public opinion, polling or survey organizations. A person who has an existing business relationship with the recipient is also obviously exempt from the prohibition.

The bill envisages that other types of organizations may also be exempted from time to time by regulation. However, this bill provides that a recipient of an exempt commercial message may advise the sender that the recipient does not wish to receive any further exempt messages from that sender, thereby opting out of that exempt sender’s mailing list.

The bill requires all senders to indicate clearly who sent the message or who authorized the sending of the message, and must contain readily available and accurate routing information so as to permit the recipient to easily contact the person who is either sending or who has authorized the sending of the message. To avoid having spammers change their address every day, which they all otherwise do, the information that I indicated to honourable senators must remain valid for at least 30 days after the commercial electronic message has been sent.

In addition to accurate contact information, the bill requires all commercial email messages to include an easily accessible “unsubscribe” mechanism that the recipient can use to withdraw consent to receiving any further messages from that

sender. As a result, email users will be able to unsubscribe from commercial messages that they do not wish to receive even though they initially consented to receiving such messages.

The power to unsubscribe from commercial emails also applies to messages that were sent by exempt senders such as political parties or businesses with which the recipient had a prior relationship. Accordingly, while exempt senders can send a first message without the express consent of the recipient, they cannot send repeated messages if the recipient objects.

Honourable senators, one great difficulty in dealing with spam is that a lot of it, and perhaps most of it, originates outside of Canada. With rare exceptions, the Canadian legal tradition has been to not legislate extraterritorially; that is, Canada will not pass laws generally that apply to non-residents. The fact that spammers are elsewhere than in the jurisdiction that passes the anti-spam legislation is one of the weaknesses of anti-spam legislation throughout the world.

I try to overcome that issue in this bill by introducing the concept of the commercial beneficiary of the spam message. All this spam promotes wares, services or gaming or schemes of various kinds involving land or other similar schemes. The sender of the spam from a foreign jurisdiction is most usually not the commercial beneficiary of the message. To capture this problem, the bill provides that the commercial beneficiary of these messages — generally someone local — has the same liability as the sender; that is, the commercial beneficiary is effectively deemed to be the sender of the message, although the bill does not say so in precisely those terms. The result, however, is that where spam promotes a service or goods to be supplied by a Canadian, the supplier becomes subject to the penalties envisaged by the statute, even though that person was not the sender of the spam, but only the commercial beneficiary.

Speaking of penalties, breaches of any of these prohibitions are subject to serious penalties. Spam has worked so far because it costs senders almost nothing to send out millions of messages, and only one or two people need to fall for a scam for a spammer to make money. As a result, the penalties envisaged by this bill are purposely high as they are intended to scare people. Fines can amount to as much as \$1.5 million, enough to act as a significant deterrent.

Two other defining features of this bill need to be mentioned. The first is an attempt to enlist and protect Internet service providers, ISPs. All these communications go from a sender to a recipient through ISPs. They can be very small providers or they can be giants like Bell, Rogers, TELUS and many others.

In all cases, this bill provides that an ISP, upon reasonable notice, may refuse or cancel service or refuse access to any person who has been convicted under the bill or who sends commercial electronic messages that the ISP has reasonable grounds to believe are sent in contravention of the bill. Moreover, the ISP may filter or block some or all commercial electronic messages originating through another ISP that hosts or facilitates the spammer.

This penalty is potentially severe and debilitating for those foreign ISPs that allow their services to be used by spammers. The bill allows Canadian telecommunications service providers to block not only the spam, but all messages from that

provider — which we hope will motivate the foreign ISPs hosting spammers to police themselves — and to minimize spam or to block it.

In fact, the importance of entrusting Canadian ISPs with such powers cannot be overstated. It was reported last week by *The Washington Post* that the volume of spam arriving in inboxes around the world suddenly plummeted on November 12 by as much as 65 per cent after a major Web-hosting firm engaging in spam activity was taken offline by two American ISPs.

If Canadian ISPs are to begin severing ties with sources of illegal activity just as their American counterparts, they must be given the appropriate legal framework to isolate cybercriminals and curtail their existence.

The other feature I want to tell honourable senators about is the anti-phishing provisions. As I indicated earlier, phishing is the use of a created website or domain name that purports to be the site of a well-known institution but is not. Some of us, perhaps all of us, have received these messages, supposedly from an institution like the Royal Bank of Canada or other similar institution saying that their security arrangements are being reviewed and that we should check our account by emailing back the bank account number and the password, which the recipient then uses to access that bank account. Of course, the moment that information is supplied to the sender of the phishing email, the sender then empties the bank account of the recipient more quickly than one can say, “How do you do?”

Honourable senators, Canada’s law enforcement officials are currently doing their best to tackle the negative impacts of spam. They participate in global and bilateral anti-spam and anti-phishing initiatives, and have established services such as PhoneBusters, which is Canada’s national anti-fraud call centre. Canada’s securities commissions have also stepped up their efforts to stop “pump and dump” schemes and other investment fraud. However, until spamming and phishing are specifically prohibited by law and subject to strong penalties, these agencies will fight the battle with both arms tied behind their backs.

Honourable senators, this bill is non-partisan, entirely apolitical, and it has no benefit to one party or another, any more or any less than any other party. It is a completely neutral piece of proposed legislation, and I respectfully ask each of you to support it.

I want to add that we do not express frequently enough the admiration that we all have for Senate support personnel, who not only help us in our work but who make our work possible. Without each of them and their expertise in various areas we could not fulfil our duties.

• (1610)

Although my staff and I were involved in the research and drafting — I essentially drafted it — as well as the choices of the approaches we wanted to take to various problems, the final draft was prepared by the Office of the Law Clerk and Parliamentary Council, and specifically by Suzie Seo and Janice Tokar. I thank them publicly once again, as I did during the last Parliament, and put on the record how much I admire their professionalism, flexibility, competence and speed. One surely could not ask for more.

On motion of Senator Comeau, debate adjourned.

## LIBRARY AND ARCHIVES OF CANADA ACT

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

**Hon. Jerahmiel S. Grafstein** moved second reading of Bill S-204, An Act to amend the Library and Archives of Canada Act (National Portrait Gallery).—(*Honourable Senator Grafstein*)

He said: Honourable senators, this matter is not new to the Senate. It has been on the Order Paper since 2007. I will not go over the arguments because, if interested, historians can refer to the Hansard in the last two parliaments and they will see extensive analysis and speeches related to this matter. A brief history, however, of the origins of the national portrait gallery would be appropriate.

Over eight years ago I visited, as I did annually, London, England, and the fabulous National Portrait Gallery off Grosvenor Square. This is a jewel of a gallery. It is five stories; it is not very big. It is a small building, but it houses, and you can see exhibited there, the great figures of Britain past and present. A floor is dedicated to the royalty, a floor to politicians, a floor to business people, a floor to the arts and a floor to average citizens of England. It is a wonderful visual history of England.

I discovered one fabulous portrait that was important to the history of Canada. It was a portrait of the first imperial war cabinet, the British Imperial War Cabinet, in 1918. That painting marked the start of Canada on its road to independent foreign policy. If honourable senators will recall, during the First World War, Canada sent over its troops but was not involved in decision-making of the war until Robert Borden, and the Prime Ministers of South Africa and Australia decided that the British war cabinet should be enlarged, and the imperial war cabinet was established. In this portrait, you will find Mr. Borden, Sir Winston Churchill, Herbert Henry Asquith and other dominion leaders in that first Imperial War Cabinet.

When I left the English portrait gallery that day, I went downstairs, punched a button and retrieved, for a couple of pounds, a copy of that portrait, which now hangs in my office. When I came back to Canada, it struck me that, having done a little bit of work on the history of national portrait galleries around the world, we did not have a national portrait gallery. Our portraits were placed in various caches. Then I attended at the archives building in Hull and discovered, to my amazement, a treasure trove of tens of thousands of portraits that have never been seen or never will be seen of Canadian figures: Aboriginal leaders, artists, writers, poets, merchants, politicians and average Canadians.

I decided that perhaps this project might be an interesting one. Eureka, something happened: The American embassy was vacated across the street from Parliament Hill and I thought this building was absolutely the ideal building. I immediately attended upon my good friend Senator Joyal, who, as honourable senators know, is one of Canada’s outstanding art experts. I said to him that this project would be a fantastic one for us to work on together, and he agreed. We prepared a presentation and shortly thereafter attended to Mr. Chrétien, the Prime Minister of the day.

We made a presentation to him. He said to leave it with him. Then we attended again on, I think, Minister Copps. We did it individually and collectively, lobbying her and her officials for this particular venue. Finally, we persuaded the government of the day, Mr. Chrétien and Sheila Copps, that this project would be an appropriate project to do. After a little delay, it was finally approved; monies were allocated for it; a bureaucratic board was set up; and Senator Joyal and I attended various meetings to urge the bureaucrats to move swiftly. They did. They held an international competition for architectural renovations to the building, which was awarded, and that cost somewhere between \$10 million and \$15 million.

One of the other rationales for that particular building was that there is no place for visitors to Parliament to go immediately after they visit Parliament Hill. I discovered that somewhere between 750,000 and a million tourists come to these Parliament buildings every year. They leave Parliament Hill and have no place to go. However, if the national portrait gallery was right across the street, it would instantaneously become the most visited art gallery in Canada.

The gallery could be publicized freely. All we needed to do was persuade the national television services in their set-ups on Parliament Hill to turn their cameras around so that, instead of facing Parliament Hill, once a week they could face the national portrait gallery across the street. It would quickly become, at no cost to the taxpayer or the federal government, an iconic building. It would probably become quickly the second-best known building in Canada, all at no cost to the taxpayer.

All this was done. All of this was working nicely, and you will see that there is still some hoarding outside. Then a new government came along and, as happens with all new governments, whatever projects the last government undertook must somehow be erased. This is called political egotism at the greatest level. This is not new with Mr. Harper or Canada. This has happened before, here and in other countries.

**Senator Comeau:** The electors were wrong again?

**Senator Cowan:** It was a technical victory.

**Senator Comeau:** The Canadian public was wrong?

**Senator LeBreton:** He skipped over Mr. Martin.

**Senator Grafstein:** That is correct. Mr. Martin did not move swiftly on it and, because he did not, it was not facilitated as quickly as it could have been, but all the preparatory work was done and finally ready to go. All that needed to be done was to let the contracts. The money had already been allocated in the budget.

Along came Mr. Harper, and he had a different view of these things. He properly felt that perhaps the rest of the country should have a share of this project, and out came a bidding match. However, the bidding match was flawed. It was flawed because cities were left out. My hometown of London, Ontario, was left out; Charlottetown and Moncton were left out. Most of the places senators live were left out of the bidding process. I felt it was not fair. Senator Joyal agreed with me.

We began to lobby, and hence the idea of putting this matter on the Order Paper. We first raised the issue on the Order Paper two years ago and moved it from a resolution to a private member's bill.

That is where we were until the election. Suddenly, after the election, there was good news. The new Minister of Heritage, Minister Moore, decided in his wisdom that this was not an appropriate measure and so the bidding match was cut off. We thought that decision was an excellent one for the government to make.

Here we are today. The building is across the street. It is maintained; it is vacant; and it needs another \$30 million or perhaps \$40 million to complete. Then we have the treasure trove: tens of thousands of portraits and millions of photographs. Someone estimated up to three or four million photographs, which go back to before Confederation, that have never been seen. We have the literacy, the visual literacy and history of Canada in a building in Hull, and nobody will have seen it, no one whatsoever. What a cultural shock.

This bill is a cost-effective measure. To take that treasure trove and move it, from time to time, into the small building across the street from Parliament will be, in my view, one of the greatest cultural institutions in Canada. The cost of renovation will probably be less than the cost of the television budget of the federal government for one year, which is cost effective. It is probably less than the cost of coffee spillage across Canada in the public service. We are not talking about a lot of money. This is a very cost-effective solution.

• (1620)

It will also be a revenue producer because as soon as it is established, exhibits could be seen by podcast on the Internet, which could be available to every institution and gallery across Canada that wishes to see the exhibit of the week on a high-definition TV screen. Therefore, every school, university and gallery across Canada would have access to a virtual reality interactive gallery. We would have a virtual 21st-century portrait gallery right across the street.

If the gallery wanted to produce revenue, that would be easy too. One of the treasure troves consists of the Yousuf Karsh collection, one of Canada's and the world's greatest photographers. If you remember the famous portrait of Winston Churchill, it was done in the Speaker's chamber. If honourable senators recall the story, when Mr. Karsh was here in 1942, I believe, he yanked the cigar out of Mr. Churchill's mouth and snapped the picture that has become the most famous picture of Winston Churchill. Canada owns that picture. The Archives of Canada owns it and Karsh's complete photograph collection, including the great portraits of Riopelle, Stephen Leacock, Pablo Casals and Hemingway. All of the Yousuf Karsh photographs were endowed to the National Archives. Why? Because Mr. Karsh, who once worked on the second floor of the Chateau Laurier, wanted this to be a gift to all of Canada and he wanted it to be seen in Ottawa. I cannot speak for Mr. Karsh or his family, but I am sure he would be turning over in his grave if he thought that his irreplaceable unique photographic collection in Canada would be dispersed across the country or not seen at all, as it is now.

Therefore, honourable senators, this is really a “no-brainer.” Not a lot of money is needed to complete the project. We have the building and the treasure trove. It could very quickly become a jewel of a museum. It could be a 21st century virtual reality gallery. It could be seen on high-definition television screens in every institution and school across Canada. No one would be left out. From coast to coast to coast, the exhibit would be available via the Internet. Some of these portraits would be available for sale as posters, which would also make it a revenue producer.

I take Mr. Harper very seriously. In the Speech from the Throne, as a leader of a minority government, he said he will listen carefully to Parliament, and he believes in solidarity between the parties. It is time for Parliament to be encased in solidarity. He has listened to the voters of this minority Parliament.

Therefore, I think this is an appropriate way to test that solidarity. Instead of letting the government decide on a major cultural institution of very little cost — a minority government representing less than 27 per cent of the voting public and less than 16 per cent of the population — it should let Parliament decide.

That is why this bill is premised on the simple proposition that this decision should not be made by the government of the day, but by Parliament, the *vox populi*, the voice of the people. Let Parliament decide after a wholesome debate here and in the other place, if we can get it over there quickly.

Honourable senators, I believe that when that question is put to the other chamber, as it will be here, most members will think about it carefully and ask themselves, why not? As a matter of fact, the cost of not doing so is greater than the cost of completing this project. Why? Think of the cost to history. Think of the cost to literary history. Think of the cost to visual history of Canada if that fabulous treasure trove of portraits and photographs is not seen by the Canadian public.

This, honourable senators, is a “no-brainer.” I urge that it be given speedy consideration, hopefully referred to a committee, if we ever have a committee, and then sent to the other place. Let Parliament decide. What is wrong with that? If Parliament decides not, so be it.

Why has there not been a lobby to support the national portrait gallery? We have strong lobbies for big oil. We have strong lobbies for big business. We have strong lobbies for educational institutions. We have strong lobbies for labour. We have very big lobbies for banks, but we do not have strong lobbies for visual artists. Why? Because the visual artist works from job to job and from commission to commission.

One of the most poignant moments for me was a group of artists who assembled in my office in the East Block. They were all hard-working visual artists. Two or three of them were crying because they wondered why no one had taken up this cause before. Said one fabulous artist to me: I want to dedicate my works to the National Archives, to the portrait gallery. I want it to be seen in Ottawa. I am proud of Canada. I am proud of being a Canadian. Why can I not dedicate my work to the archives, to be

seen hopefully in the national portrait gallery in Ottawa, the nation's capital? That is my way of addressing the future of Canada and the past.

I will tell you, honourable senators, those ladies and gentlemen artists are right. Senator Joyal knows it. We do not have a lobby for visual artists. We have a lobby for television producers. We heard from them before the Banking Committee repeatedly, but there is still no lobby for visual artists. Why? They cannot afford to come. They are hard at work on their next work of art.

Honourable senators, I say to you, please, for one time in the Senate — and I have been here a long time — consider what I am asking, for it will not cost the taxpayer.

My wife, however, has an objection. I want to conclude with this. She says: This is not the time. There is an economic depression. What are you doing? People will not be with you on this. You should understand that.

I said to her: There is never a good time for the arts. I remember reading about the last Depression and Mr. Roosevelt. Some of you may remember what President Roosevelt did; he decided, in the midst of the Depression, that it was very important for visual artists to gather and to produce some of the greatest visual art you have ever seen. Senator Joyal recently published a very interesting book on painters from Montreal who painted during the Depression. It is a magnificent work of art. During a depression, I believe people want to know about the culture of their country. They want to be proud of their country. They want to have a sense of patriotism about their country. What better way to accomplish that than by having a national portrait gallery? I urge your support.

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Will Senator Grafstein accept a question?

**Senator Grafstein:** Certainly.

**Senator Comeau:** By way of preamble to the question, quite frankly, I had not understood why Senator Grafstein had such zeal for this project. I now finally discover that he is the genesis behind the idea.

In the course of Senator Grafstein's comments, I was listening quite carefully, he indicated the importance of having an art gallery in the nation's capital. I have no problem with that whatsoever.

What I want to zero in on is that the honourable senator indicated in his comments that it would cost roughly \$30 million to \$40 million if we were to go ahead and accept his bill, which is a figure the honourable senator mentioned in an article in *The Globe and Mail*.

During the course of the honourable senator's comments, he said it is entirely appropriate for senators and parliamentarians to propose bills that a minority government must accept. I think the honourable senator's wife was probably right in suggesting to him that now may not be the appropriate time for requesting this bill. During times of difficulty — we heard Senator Mercer earlier today talking about children in need of help and people in need of jobs — perhaps now is not the time for parliamentarians to get



involved in the business of being the executive of a gallery, which is what the honourable senator is proposing with this bill. Now is not the time for parliamentarians to start passing bills with regard to which Senator Grafstein says \$30 million to \$40 million is a small amount. It adds up.

I am suggesting that if honourable senators in this chamber — I think our numbers are becoming less and less every day — all started proposing bills in the \$30 million to \$40 million range, who would be held responsible at the end of the government's mandate? The government? Absolutely not. Senator Grafstein is suggesting that parliamentarians in a minority government should be proposing bills and, as a result of their numbers, be able to pass bills through both chambers. The bill would pass in this chamber because you have the majority, and in the other chamber because the government does not have a majority. He is suggesting, therefore, that parliamentarians should be able to push bills through.

• (1630)

After a few years, when the government finally goes to the electorate and says we are here to seek another mandate or you will have to elect someone else, who do you hold responsible? In such a situation, is it the government that is responsible or is it the parliamentarians?

You would want to hold the government accountable, especially in times of extreme economic difficulty, as we are facing now. I do not think many people understand the seriousness of the current situation.

Will we have parliamentarians become the executive, or will we have the executive make the proposals, and we say yes or no to those proposals?

What Senator Grafstein proposes as entirely appropriate for us, as parliamentarians — especially in this chamber — may not be quite as appropriate as in the other chamber. Senators have a less legitimate claim to start imposing executive decisions in this chamber, but that is a different subject. Senator Segal proposed a motion today that might fix that problem.

My question to the honourable senators is this: Is it appropriate for backbench parliamentarians such as honourable senators to become the executive? At the end of three or four years, whom do we hold accountable for the expenses of the executive?

**Senator Grafstein:** Honourable senators, I appreciate this important and thoughtful question.

First, let us look at the costs. Large costs have already been spent. How irresponsible is it to have established costs of somewhere between \$10 million and in excess of \$15 million for the project and to just wipe it away? That is irresponsible as well. Who should be held accountable for that?

Spending new money is one thing, but who should be held accountable for having spent the money and having nothing to show for it other than a proposal perhaps to have a prime minister's reception area?

Senator Comeau raises another question: Where is the money? The government has already promised the money. This is consistent with this project: Public Works. They have already

said they will allocate money to Public Works to stimulate the economy. The money is already available. The question is this: How should that money be allocated?

Finally, as to whether or not we are executives in Parliament, we are not, quite right. However, as Senator Joyal can confirm, we have been inundated with messages of support from people across Canada who say they want this national portrait gallery in Ottawa.

By the way, in the interests of stimulating the economy, how cost effective is it — if that is the government's policy — to stimulate the economy by contributing another \$30 or \$40 million to complete the project and then to get to exhibit many hundreds of millions of dollars of art made available for the public? This would be an economic stimulus for this city. It will act as a stimulus for tourism. This creates jobs, tourism and money. Why would we not do this?

On the topic of the other House, Senator Comeau is quite right; it is a house of confidence on money matters and we are not. If the House on the other side says no, so be it. That will be the end of this unless it is for another government, another day and another time. In the interim, I hope that if the bill is sent over to the other place there would not be a whipped vote. If that is the case, I am satisfied I would get a majority of all members of Parliament, save and except perhaps with respect to one party.

**Senator Comeau:** You have completely averted the question I was asking.

We, on this side, know the bill will pass because you have the numbers. We have been around long enough to know that if your side proposes it it will go through, because you have the numbers.

What happens in the House of Commons where there is a minority government? It is obvious that if the opposition parties decide to do a bit of mischief, as happened in the last Parliament with Kyoto and Kelowna and a number of other bills, it will be done.

Should we not, as parliamentarians, ask, "Is this our role?" Is this why we were asked to come to the Senate? Were we asked to come here to propose bills? That is the domain of the executive, the government that the people of Canada elected. It may be a minority government this time, but the people elected a government that they will hold accountable during the next federal election. However, who do you hold accountable if Senator Grafstein starts putting in a \$30 to \$40 million bill? If Senator Comeau starts to put in a \$30 million to \$40 million bill, who do you hold accountable?

Should it not be our role to try to convince government that this portrait gallery is the gallery we want for Canada? If this is the place for it — right across the street in the old United States embassy — should we not try to convince the government rather than force the government, through a private member's bill, to accept it?

I am suggesting that if Senator Grafstein wants the portrait gallery, he should become a part of the executive that makes the decisions. It is not our role to spend taxpayers' dollars, especially in this non-elected chamber. It is not our job to become the executive, say the government is all wrong on this issue, and

impose it on them through a private member's bill. This is what I am trying to suggest at this point. This is not the job of senators in this chamber.

If the members in the other place want to get it to the executive, they have a little bit more legitimacy to do it, but not honourable members of this chamber.

**Senator Grafstein:** I am sure I will not be able to satisfy the learned senator, but I respect his viewpoint and I think he has raised an issue. Let me answer in a different way. Let us take a look at the constitutional construct of this place.

We are here with a very simple mandate. We are here to represent regions, to represent minorities and uphold the Constitution. We are here to deal with legislation. We have the power to introduce private members' bills, and we do so often. One of the reasons we introduce private members' bills is because the government is not listening.

**Senator Comeau:** As we found out on October 14.

**Senator Grafstein:** Therefore, the government has an opportunity to say yes, no or maybe. Many times, even when it is a majority government, it does accept a private member's bill.

There are a number of ways of dealing with this dilemma. If you agree with me that this is a great project for Canada, then I have no problem if the government adopts this bill as one of its measures. As a matter of fact, I thought Minister Moore — when he cut off the old process — did a magnificent job and I commend him for it. He understood that the process was flawed and it would not work because it was neither cost effective nor beneficial. He cut it off as he should have, quite rightly.

We are a voice of the minority. One of the points I tried to make — probably not as well as I could have — is that we are also here to represent those people who do not have a voice. The visual artists told me they do not have a voice. They could not convince the government that this was a good project. Now, at the end of the day, if it is passed here — and I say this sincerely — I would take no credit for this project. If the government wishes to take credit for it, that is fine; it can name it whatever it will.

My point is that I hope senators on both sides will not be whipped on this issue. I do not expect us to be whipped on this matter. Some senators on this side disagree with me. I hope that we could have a non-whipped vote. If we have a majority in this place to send it to the other side, it is not a simple process there either, because that chamber is not fair to us. We are fair to it; it is not fair to us in its treatment of our private members' bills.

When they send a private member's bill to us we treat it as a Senate private member's bill. When we send a private member's bill to them, there is an auction process; there is a line-up and negotiation.

• (1640)

It is not an easy process over there. This is not a “slam dunk.” The only way it can be fast-tracked in the other place is by unanimous consent of the parties. It must be the will of more

than one party. I know this is a difficult and complex process on the other side. However, where there is a will, there is a way.

If the Minister of Finance said to me today, “Senator, we cannot afford \$40 million,” I would say, “How much can you afford, \$5 million or \$10 million?” If the government chooses not to spend the \$40 million from its budget, it could take half of that amount and renovate the building. It would not include all the add-ons that Senator Joyal and I so meticulously reviewed in the plans. We could scrap that and still open it for under \$10 million, I am sure.

If it would not be appropriate to spend \$40 million we could wait for better times. However, let us spend the minimum to open it. The building is vacant and it is being maintained now. Money is spent every day. If you want to be cost effective and accountable, you would say this is the appropriate measure now.

The honourable senator is right; I cannot answer his question directly because that is not our role. Our role is to propose. If the government and the other House, which deals with money matters, decides this is not an appropriate measure, it will not be approved.

I hope that senators on both sides will look at the reality here and say, “why not?” The cost of not doing this project is greater than the cost of going ahead. It is not a cost factor or an accountability factor, honourable senators. I think we are unaccountable. If we do not look at that treasure trove and do not allow future generations to see it, then we are accountable.

There is a larger question of accountability. Prime Minister Harper was clear about that. He made some brilliant speeches about the accountability of Parliament. I think it is totally unaccountable to have a vacant building across the street with a treasure trove a couple miles away not being utilized in the public interest. That is the bigger step of accountability. There are larger and more moral questions about accountability than the narrow question about whether one particular government will be stung with spending \$40 million.

I hope honorable senators will consider this patiently and allow other senators to speak. Then perhaps we can unanimously agree that this measure go forward to the other place. What a message the Senate would send to artists across Canada.

On motion of Senator Segal, debate adjourned.

## CONSTITUTION ACT, 1867

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

**Hon. Tommy Banks** moved second reading of Bill S-212, An Act to amend the Constitution Act, 1867 (Property qualifications of Senators).—(*Honourable Senator Banks*)

He said: Honourable senators, in 1867, a property requirement of \$4,000 in order to qualify for membership in the Senate of Canada was probably a sensible thing, because there is no doubt

that in 1867 one of the reasons for this place was to stem the excesses of the rabble as well as to protect against the excesses of government.

**Senator Segal:** Hear, hear! That is still important.

**Senator Banks:** The former, one hopes, has now gone away. I hope this place has long since ceased to be a protection for the landed gentry and other landed interests.

However, the requirement still remains. One of the effects of the requirement is that if one were to be an apartment dweller, for example, that person would be excluded perforce from becoming a member of the Senate if he or she were so asked to do. That is an antediluvian requirement that may have made sense in 1867 and has never been changed. It makes no sense now.

We all know stories of people who, when they thought such an invitation might be extended, have had to go out and buy someone's garage or an acre of land in the back 40 somewhere in order to meet this qualification.

It is out of date. It is a means by which the Senate can fix itself in a small but not insignificant way. It is something that properly falls within the definition of the term "reform," I think.

Other efforts sometimes do not. Change is not necessarily reform, but this is reform. In one sense, this is bringing common sense of the 21st century to the Senate.

I hope we will have a debate on this and that it will be sent to committee to be considered carefully. An attendant motion having to do with Quebec is included, to which I will speak briefly when it arises. However, I hope that we will deal with this, send it to committee and then send this bill to the House of Commons for consideration at the earliest possible date.

**Hon. Hugh Segal:** Would the Honourable Senator Banks entertain a question?

**Senator Banks:** Yes.

**Senator Segal:** I assume by the nature of the motion and its impact on qualification — and to that extent the appointment process — it is based on the premise that this chamber and our colleagues next door have the right to make those changes without a federal-provincial constitutional negotiation and without a direct reference to the Supreme Court of Canada. I assume it is implicit in this that the honourable senator believes this is the case.

**Senator Banks:** That is correct. As we know, certain things are set out in the Constitution. There is a fairly clear division about those things having to do with Parliament, which Parliament can change by itself. For example, we know that the question regarding the age of senators has been changed by Parliament itself without reference to the legislatures of the provinces or to any constitutional amendment beyond that done by Parliament.

Discussions have taken place about certain other motions made with respect to bills in this place and whether they fall on one side or the other of that fence. I believe this bill falls clearly within the purview of those things that Parliament can do to itself.

**Senator Segal:** I wonder whether it would be unfair on my part to expect from the honourable senator the same largess and open-mindedness should legislation be presented to this place or to the other House about other aspects of the constitution of this body. Perhaps we could have the intellectual courage to move away from the prior position which was that if it involved something only within the federal jurisdiction, it still required a Supreme Court reference or federal-provincial negotiations.

All I am asking is that the principle underlying the honourable senator's very stout and admirable defence of the constitutionality of this proposition remain open for discussion in a constructive way should other reform legislation — small "r" — be presented to this chamber or the other place.

**Senator Banks:** All legislation presented in this place will, I hope, be given careful consideration. In my opinion, the answer and position on such a question will be "it depends, senator."

On motion of Senator Tkachuk, debate adjourned.

• (1650)

## WORLD AUTISM AWARENESS DAY BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Jim Munson** moved second reading of Bill S-213, An Act respecting World Autism Awareness Day.—(*Honourable Senator Munson*)

He said: Honourable senators, I wish to acknowledge the generous comments of Senators Meighen and Senator Champagne on my new position. They were appreciated very much. If I keep this up, I could be Prime Minister one day. I am the most accidental politician you will ever meet.

**Senator Segal:** There is still room in the leadership. It is still open. Finally, a real choice!

**Senator Cordy:** The record is not good.

**Senator Munson:** The Senate is a good place to start.

Honourable senators, it is late in the day, but I wish to speak briefly about Bill S-213, respecting World Autism Awareness Day. In the previous parliament, when I introduced this bill, it received warm support from Senator Oliver, Senator Keon, Senator Mercer and former Senator Trenholme Counsell. They were all generous in their support and remarks. I thank Senator Oliver for once again seconding this bill.

I have since travelled across this country, talking to and working with many autism groups. Recently, I was in Montreal. When I go out, I speak about a national program. We need national leadership. We raise money, \$30,000 here or \$40,000 there, for various hospitals and research, but there must be a bigger plan, and this bill will go a long way in terms of focusing attention.

I was disappointed that Parliament prorogued before the bill could be referred to committee. It is my hope, honourable senators, that we can move this bill forward, given the light legislative agenda that we have right now, and focus on it in committee.

This bill will raise awareness about autism, a neurological condition that affects a growing number of families in this country. Autism now affects more children worldwide than pediatric cancer, diabetes and AIDS combined. One in 165 families is living with autism, and they need our help.

Autism isolates those who have it from the world around them. Many different therapies are available, but waiting lists are long, and many treatments are not covered by our own health care system, which is a good system. While we do not know very much about autism, we do know that the earlier treatment can begin, the more successful it tends to be.

Imagine for a minute how stressful it would be to have a child with autism and know that they will not receive treatment for several months or even years because of waiting lists in the province of Ontario. Imagine, honourable senators, the anguish that would cause. It is a tragedy when people with autism do not receive timely treatment because it means that they are denied the tools they need to succeed and contribute to society.

Waiting lists are not the only barrier to treatment, honourable senators. Cost, too, is a factor. Treatment for autism can cost up to \$65,000 a year. Every province has a different approach to funding treatment. Far too many families have to remortgage their homes, get a second job or make other sacrifices to ensure their child gets the treatment he or she needs. You have probably heard about them personally in your own jurisdictions.

The costs for society also increase when treatment is lacking, as honourable senators learned during the Standing Senate Committee on Social Affairs, Science and Technology inquiry into autism that resulted in the report *Pay Now or Pay Later: Autism Families in Crisis*.

We learned during that study how autism also isolates those around a person with autism. One parent must often give up a satisfying and well-paying career to be a full-time caregiver and advocate for their child with autism. Financial strain, fatigue and constant worry for their child erode the mental and physical health of parents. They need our help, too.

This is a modest bill, to respect World Autism Awareness Day. I know it will not change their reality — their day-to-day struggle to find and pay for care — but if a nation, for one day, acknowledges their reality, they will not feel so alone.

On April 2, World Autism Awareness Day, people with autism and their families will feel the respect and admiration they deserve from their fellow citizens. Such a day will show support, but it will also send a message about autism to those who do not know about this condition. It will be an opportunity for people to learn about autism and recognize that, in their community, there are families living with autism — neighbours, friends and colleagues who deserve to have their reality acknowledged and supported.

Before we can celebrate World Autism Awareness Day, we need to pass this piece of legislation. It seems appropriate to speak to this bill today, just one day after this very chamber was filled with hundreds of school children who came here to celebrate National Child Day with us. The theme, as Senator Cochrane said earlier today, of National Child Day was “Striving for success.” All children have the right to succeed and we, as adults and law makers, have the responsibility to ensure that they have the tools and opportunities that they need to succeed.

Senator Cochrane mentioned one of our special guests who stood here on this floor. I wish you were all here to hear what he said. Anthony Curkeet-Green has Asperger's. He stood in front of us, and we witnessed what he had to say, which was basically that more needs to be done. There have been recent provincial cuts in educational assistants in the classrooms and occupational therapists. This is not a place to cut. We are a caring society. Every teacher makes a difference. We should be thinking of Anthony when we think of World Autism Day.

In closing, I remind honourable senators that Canada is a signatory to the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities. These international conventions commit us to take action to see that persons with disabilities enjoy a full life in conditions that ensure dignity, self-reliance and full participation in society.

Let us take one more step forward, honourable senators, and join the 192 other countries in the world that have made April 2 World Autism Awareness Day. Thank you.

On motion of Senator Keon, debate adjourned.

## VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before proceeding, I would like to draw to your attention the presence in the gallery of the Honourable Member of Parliament from the oldest city in Canada, the electoral district of Saint John, Mr. Rodney Weston.

## CONSTITUTION ACT, 1867

### MOTION TO AMEND REAL PROPERTY PROVISIONS FOR SENATORS—DEBATE ADJOURNED

**Hon. Tommy Banks,** pursuant to notice of November 20, 2008, moved:

Whereas, in the 1st Session of the 40th Parliament, a bill has been introduced in the Senate to amend the Constitution of Canada by repealing the provision that requires that a person, in order to qualify for appointment to the Senate and to maintain their place in the Senate after being appointed, own land with a net worth of at least four thousand dollars within the province for which he or she is appointed;

Whereas a related provision of the Constitution makes reference, in respect of the province of Quebec, to the real property qualification that is proposed to be repealed;

Whereas, in respect of a Senator who represents Quebec, the real property qualification must be had in the electoral division for which the Senator is appointed or the Senator must be resident in that division;

Whereas the division of Quebec into 24 electoral divisions, corresponding to the 24 seats in the former Legislative Council of Quebec, reflects the historic boundaries of Lower Canada and no longer reflects the full territorial limits of the province of Quebec;

And whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Now, therefore, the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the schedule hereto.

#### SCHEDULE AMENDMENT TO THE CONSTITUTION OF CANADA

**1. Section 22 of the *Constitution Act, 1867* is amended by striking out the second paragraph of that section, beginning with “In the Case of Quebec” and ending with “the Consolidated Statutes of Canada.”.**

**2. (1) Paragraph (5) of section 23 of the Act is replaced by the following:**

(5) He shall be resident in the Province for which he is appointed.

**(2) Paragraph (6) of section 23 of the Act is repealed.**

*Citation*

**3. This Amendment may be cited as the *Constitution Amendment, [year of proclamation] (Quebec: electoral divisions and real property qualifications of Senators)*.**

He said: Honourable senators, I mention this today only because I hope that this motion will keep approximate pace on the Order Paper with the bill I discussed earlier.

Quebec today is not the same as it was in 1867. There was a very good reason in 1867 for a difference in the sense of the actual parts of Quebec as represented by senators. Quebec was much different then than it is now.

• (1700)

To give full effect to the bill to remove the property requirements of senators that I spoke about earlier, it is necessary to take this action by the Parliament of Canada and

by the legislature of the Province of Quebec in order that the constitutional amendment that is contemplated here can be made as proper, appropriate and equal in that province as it is in all other provinces of Canada. Therefore, I hope honourable senators will give consideration to this motion, and that it will be sent to the same place so the previous motion on the bill and this motion can be considered at the same time, for the same reasons.

Thank you.

**The Hon. the Speaker:** Is there debate?

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Senator Banks, have you had any discussions with the authorities of the Government of Quebec as to their expressions of interest in this bill or whether they have any objections? I suppose it would be in good form to at least inquire of the Quebec government as to their sentiments on proposing an amendment to constitutions that impact their province.

**Senator Banks:** It would certainly be in order. I have not done it because I do not think it is my place to open consultations with the Province of Quebec. I assume that consultation would be done by the Government of Canada, should this resolution find favour in both Houses of our Parliament.

**Senator Comeau:** It is not the honourable senator's place to open dialogue with Quebec on constitutional issues, but is it the honourable senator's place to propose a motion that affects the constitution of Quebec, given that he is the one proposing it? I say that with all due respect. One would think it would be his role to at least find out whether there is a sentiment one way or the way.

I am not suggesting that this resolution is not a good idea — far from it. However, one would think that the honourable senator might have given some kind of an indication of the stance of the Province of Quebec rather than asking us to pass a resolution without checking with the Government of Quebec. I believe this is a resolution of the Senate, and one would think that we would have an indication.

**Senator Banks:** For this to be given effect, it would have to be a resolution of the Senate, the House of Commons and the National Assembly of Quebec. I would not have the temerity to enter into such negotiations, honourable senator. Regarding the honourable senator's suggestion that it is not appropriate that I should introduce such legislation, someone has to; no one else did.

**Hon. Percy E. Downe:** Further to Senator Comeau's comment, Senator Banks says he does not want to enter into debate or discussion with Quebec. I can understand that. However, he may want to write the government explaining his motion and see what their views are. My understanding is the Premier of Quebec has said on many occasions, speaking for the Government of Quebec, that any change — any change — to this chamber requires the approval of Quebec. The honourable senator may want to find out if that is the position and receive confirmation in writing.

**Senator Banks:** No opinion is required on that because that is what the Constitution says. This motion is entirely consistent with the requirements of the Constitution, which say that an amendment of this kind, and of other kinds, can be made by the Governor General, under the Great Seal of Canada, provided there is a concomitant resolution by each of the three chambers: the Senate of Canada, the Canadian House of Commons and the legislative chamber of the Province of Quebec. That is what

the Constitution says. Whether it is agreed to by all three chambers is another question. Regardless, the constitutionality of the proposal is something that I have thoroughly checked.

On motion of Senator Tkachuk, debate adjourned.

The Senate adjourned until Wednesday, November 26, 2008, at 1:30 p.m.

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