



CANADA

# Debates of the Senate

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2nd SESSION

•

40th PARLIAMENT

•

VOLUME 146

•

NUMBER 7

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OFFICIAL REPORT  
(HANSARD)

**Thursday, February 5, 2009**



THE HONOURABLE NOËL A. KINSELLA  
SPEAKER

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(Daily index of proceedings appears at back of this issue).

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Published by the Senate  
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.  
**Also available on the Internet: <http://www.parl.gc.ca>**



## THE SENATE

Thursday, February 5, 2009

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

Prayers.

### SENATORS' STATEMENTS

#### THE SENATE

##### BUDGET 2009—WITHDRAWAL OF REMARKS

**Hon. Michael Duffy:** Honourable senators, if the metaphor I used in my speech on February 3 was offensive to some members of this chamber, I withdraw the metaphor. Thank you.

**The Hon. the Speaker:** Honourable senators, the matter has been settled.

#### DISTINGUISHED VISITOR IN THE GALLERY

**The Hon. the Speaker:** Before proceeding, honourable senators, I wish to draw your attention to the presence in the gallery of our distinguished former colleague, Dr. Marilyn Trenholme Counsell. Welcome.

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

#### TRIBUTES

##### THE HONOURABLE MARILYN TRENHOLME COUNSELL

**The Hon. the Speaker:** Honourable senators, I have received a notice from the Leader of the Opposition, who requests, pursuant to rule 22(10), that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tributes to our former colleague the Honourable Marilyn Trenholme Counsell, who retired from the Senate on October 22, 2008.

I remind honourable senators that pursuant to the *Rules of the Senate of Canada*, each senator will be allowed only three minutes and may speak only once. However, as it is agreed that we continue with our tributes to Senator Trenholme Counsell into the time subsequently provided for Senators' Statements, if necessary, we would therefore have up to 30 minutes for tributes and any of the time not used for tributes would be used for other statements.

Is that agreed, honourable senators?

**Hon. Senators:** Agreed.

• (1405)

**Hon. James S. Cowan (Leader of the Opposition):** Honourable senators, today, I wish to pay tribute to a dear friend, a great Atlantic Canadian, and a distinguished colleague, the Honourable Marilyn Trenholme Counsell, who retired from the Senate on October 22, 2008.

We are fortunate in this place to have colleagues who bring an extraordinary depth of experience and knowledge to their work as senators. Senator Trenholme Counsell stands in the highest rank.

For many of us, an appointment to the Senate marks the beginning of a second career — not so with Marilyn. For her, it was the latest in a series of interesting, adventure-filled and meaningful vocations: nutritionist, journalist, family physician, provincial legislator, lieutenant-governor, senator and, through them all, a community activist par excellence.

Marilyn's roots in Atlantic Canada gave her a determination to do everything in her power to improve the lives of others, particularly those who, through no fault of their own, had fallen between the cracks or were otherwise disadvantaged.

Marilyn's commitment to literacy, children and early childhood education is unwavering. In the Senate she was a tireless advocate for those causes, as well as for a multitude of other health-related issues. Most recently, she led a study in the Standing Senate Committee on Social Affairs, Science and Technology examining the state of early learning and child care in Canada.

Last year, my wife, Shelagh, and I attended a memorable dinner for Marilyn in her hometown of Sackville, New Brunswick. The dinner was chaired by Senator Munson. Senator Bryden and Senator Day were also there. What struck all of us was the diversity of the guest list — family, friends, neighbours, patients, and representatives of countless groups that have been touched and helped by this remarkable woman over the course of her careers.

The stories that were exchanged that evening gave me an even greater insight into, and appreciation for, what she has achieved, and the lives touched and the causes promoted by her. She truly represents a model for all of us. We will all miss the daily contact with this warm and compassionate person who has been our colleague since 2003. Her accomplishments will endure.

I am sure her son and daughter will welcome the opportunity to spend more time with her now that she has retired from the Senate. Here, however, she will be sorely missed.

**Hon. Consiglio Di Nino:** Honourable senators, I am pleased to pay tribute to Senator Trenholme Counsell. The Senate will be diminished by her retirement. As her curriculum vitae indicates, however, this remarkable woman has far from finished her work that does so much to improve the lives of others, particularly children.

The Honourable Marilyn Trenholme Counsell is a model for all of us. She was the first and only woman doctor to become an MLA in New Brunswick; a cabinet minister in New Brunswick; and a lieutenant-governor in Canada. Honourable senators, I am talking about the only woman doctor — which is surprising to me; we have so many good people. I was also informed that she is the only woman doctor to have been called to the Senate of Canada.

Senator Trenholme Counsell has also had a distinguished career as a journalist. Her efforts for a variety of causes, such as the arts, literacy, Scouts and health care, have greatly enriched Canadian society.

In addition to being a true trailblazer, Senator Trenholme Counsell has been a tireless champion for children. I happen to agree with her that we must invest in our children's well-being today to help them become our leaders of tomorrow who will continue to build a stronger and safer society for all of us.

Honourable senators, given my work and interests, I will feel the absence and miss the support that the good senator has given to me and to everyone in this chamber.

• (1410)

I commend Senator Trenholme Counsell for all of the work that she has done, not just here but throughout her life, and in particular with Scouts Canada, a passion that we both share.

I wish you all the best in your future endeavours, Marilyn, but mostly many more years of valuable service to society. I urge your family to stand by you and help you fulfil many more dreams for many more Canadians. God bless.

**Hon. David P. Smith:** Honourable senators, I rise to pay tribute and to bid farewell — at least in my role as a senator — to my dear friend Marilyn Trenholme Counsell.

Apart from the fact that we have been Senate colleagues, we have been close and good friends. One of the main reasons for that is sitting right beside her — her lovely daughter Lorna, who looks 21 years old, and in spite of that practised law with me in my firm in Toronto for several years. We have been soulmates for years.

We will miss you, Marilyn.

Fine minds make it to the Senate, and from different areas. There is another fine doctor here. In spite of the fact that Marilyn came to Toronto to go to the University of Toronto medical school, she is really a true Maritimer in her heart. It is almost like the salmon going back to the stream. She went back to Atlantic Canada and practised medicine. I have heard numerous stories of her going out in wild weather to visit country patients, a circumstance to which many of us cannot relate. She certainly brought to this chamber an understanding of issues in which most of us do not have first-hand experience. When she spoke, it was always real, genuine and from the heart.

Honourable senators are familiar with her three-term tenure in the New Brunswick legislature. She was a government minister and also lieutenant-governor of that province.

Marilyn, I will miss seeing you, but when you come to Toronto, we will see you again. I am looking forward to cooking for you. Senator Duffy can confirm that I am a good cook because he used to hire me to cook at his dinner parties.

I bid you farewell, Marilyn, but only in the Senate context. You made a great contribution and we will see you regularly.

**Hon. Wilbert J. Keon:** Honourable senators, I too wish to pay tribute to a truly magnificent woman.

I have worked with Senator Trenholme Counsell since she came to the Senate. It seemed we were always on the same committees. It was a real pleasure to draw on her vast political experience, which was in the background. The warmth of a family physician who practised medicine in her own home came through in every deliberation.

Throughout her career, as a politician and as Lieutenant-Governor of New Brunswick, she has been a champion for the promotion of children through literacy, and for the promotion of early childhood education and development based on science.

Senator Trenholme Counsell, I grieve a bit that both of us are growing a bit long in the tooth, because the neuroscientific community in Canada and around the world is developing. The knowledge that is unfolding will allow for tremendous improvement in early childhood development and the prevention of some of the entities that we were talking about yesterday in this very chamber.

• (1415)

I do not intend to say goodbye because we have much work to do. I will be in touch as we hopefully work together to push the literacy agenda, which is so dear to your heart.

I suspect that the Early Childhood Literacy Awards that you established when you were lieutenant-governor will go on forever. I promise you that all of the hard work and diligence that you put into the report on early childhood development will have an impact. You gave unselfishly of your time and Senator Eggleton and the other committee members are committed to the implementation of that report.

For today, I am simply saying hello again. I want to continue to work with you. I, too, will be winding up in the Senate before long. That will give us both plenty of time to do what we like best.

**Hon. Joyce Fairbairn:** Honourable senators, it is with sadness and great pride that I say farewell to a friend and a colleague, Dr. Marilyn Trenholme Counsell, who has brought, through wisdom, laughter and kindness, a real sense of creation in this chamber. She will be missed tremendously. While doing this, she has been a great voice for her beloved province during these last five years.

Before Marilyn came to this chamber, she was an icon in New Brunswick, where she served first as a vigorous family physician and nutritionist in Sackville before moving into the Legislative Assembly of New Brunswick, where she served as Minister of State for the Family. She has degrees from Mount Allison University and the University of Toronto.

I first met Marilyn when she was Lieutenant-Governor of New Brunswick and one of the most vigorous activists for literacy in her province. I had just become the federal Minister of Literacy. The combination of Marilyn and Premier McKenna was a powerful example to the rest of this country of the need for help with that difficult issue which remains a tragedy in our society.

Not only did we join in that cause, but we also continued in other areas, as the good doctor has indicated in our committee work in the Senate. As the “still” senator, in my mind, leaves this

chamber, we can rest assured that Marilyn will continue to fight for all those people who need help. She will be remembered with great affection and friendship by one of us, as not only a friend, but also as an outstanding senator.

**Hon. Pamela Wallin:** Honourable senators, Dr. Marilyn Trenholme Counsell is truly a woman ahead of her time in the fields of medicine, politics and philanthropy. I have had occasion over the years to work alongside Marilyn, particularly during my time in New York. Dr. Trenholme Counsell's work with youth was remarkable in New York, in her home province, and throughout this country. Her work is truly amazing and inspirational.

Marilyn, I also have to add that you have been an inspiration to your daughter, Lorna, with whom I have had the pleasure of working. It is wonderful to see you as a role model. Thank you for being who you have been.

**Hon. Art Eggleton:** Honourable senators, King George VI once said that the highest of distinctions is service to others. Senator Trenholme Counsell's life is full of accomplishment in service to others.

• (1420)

We have heard some of that service enunciated: from her early years as a family physician in both New Brunswick and in Toronto, Ontario, through to her second career in elected office in the New Brunswick legislature. She was the first Minister of State for the Family in that province. She carried through to her next career as Lieutenant-Governor of New Brunswick, with a commitment that she made to promoting opportunities for children. She is a champion of children and literacy. Honourable senators know that through her work in the Senate. Finally, I move to her career that has come to a close after five years; namely, her career in the Senate of Canada.

What a trailblazer Marilyn is. She was the first woman doctor to be elected to the New Brunswick legislature, the first woman doctor to be a cabinet minister in that province, the first woman doctor to be a lieutenant-governor in Canada and the first woman doctor to be a member of the Senate. She has received numerous honours and recognition over the years for all the good work she has done.

I have come to know her over the last couple of years particularly in my capacity as Chair of the Standing Senate Committee on Social Affairs, Science and Technology, where she has been an active and daily participant in deliberations on everything from the mental health report entitled *OUT OF THE SHADOWS AT LAST*, to autism, poverty and the work on population health that Senator Keon leads. Her questions are insightful; good questions and comments that show what a caring and compassionate person she is.

I join with Senator Keon, who said a few moments ago that we will work toward and commit to moving that early learning and child care report out of committee. The report is ready now. As soon as the committee is started, it will be ready for deliberation. We will do our utmost to have the report passed in committee and brought to the Senate for consideration because it is her work that has helped to make that report a reality and we owe a debt of

gratitude to her for that. I hope we see much more of Marilyn in the years to come and I wish her well.

**Hon. Michael Duffy:** Honourable senators, I first met Marilyn Trenholme Counsell when she was a cabinet minister in the New Brunswick government. She would come to Ottawa or other venues where there were federal-provincial conferences on issues of mutual concern.

It quickly became apparent to those of us in the media that Marilyn was an outstanding spokesperson for her province; someone who was forward looking and who helped make New Brunswick an incubator of so many innovative social programs. I am sure Senator Munson remembers this time as well. The province has about a million people. It is just the right size to run pilot programs. She and Premier Frank McKenna were always keen to have New Brunswick undertake innovative programs with the federal government to see how it would work when rolled out on a larger scale.

I have followed Marilyn's career with interest and had an opportunity with my wife to meet with her as Lieutenant-Governor of New Brunswick and then, later on, in her term here in the Senate. I wish to associate myself with all the positive things that have been said about Marilyn and her family today, and I look forward to seeing her in action for many years to come.

**Hon. Jim Munson:** Honourable senators, in my mother's home village of Baie Verte, New Brunswick, Senator Trenholme Counsell is known simply as "Marilyn." Imagine a small village in New Brunswick — Baie Verte. Imagine two prominent families — the Trenholmes and the Scotts, the Trenholmes being liberal and the Scotts conservative. It was not the Canadian version of the Hatfields and the McCoys because there was a lot of love in that village. The only difference between the families was about a foot. My mother's family were wee Scotts, while the Trenholmes were tall.

My grandfather, James G. Scott, was a Progressive Conservative godfather in the area. Marilyn's dad had a similar role for the Liberals. Sometimes my grandfather's Tories won and sometimes Marilyn's dad's Grits won. I do not know what my Tory grandfather would think this afternoon. Regardless, as a Liberal senator, I am here to speak fondly of Harry Trenholme's daughter, Marilyn Trenholme Counsell.

• (1425)

I think honourable senators will agree that Marilyn Trenholme Counsell, as has been said, is an extraordinary woman, a trailblazer who has made her mark on this country — not only in Baie Verte and in New Brunswick, but in this country. However, home is where the heart is and Marilyn's heart is huge. She is a mother who has always doted on her children. She lost her husband a long time ago but never lost her love for him.

Her next love is love of community. As a doctor, she cared for everyone, and that included house calls day and night and on the weekends.

Here in the Senate, she leaves behind a legacy of professionalism, intelligence, courtesy and great charm. Others have spoken about what she has done in New Brunswick, and I do not need to repeat that, but when one takes all the titles

away — lieutenant-governor, cabinet minister — one is left with a person who likes nothing better than to read to children. Here in the Senate she made children her priority by working to make early childhood education available to children and families throughout this country.

She made us understand that early childhood education is about helping kids get a good start, about helping young families find balance between work, education and raising children, about ensuring that women, in particular, have choices and opportunities.

Honourable senators, Marilyn also made us see how early childhood education goes beyond the family and touches broader policy issues. Early childhood education is about poverty reduction, equal opportunities, making sure that everyone gets a fair shake and, ultimately, about making Canada a better country.

In closing, we must thank Marilyn for her wonderful contributions. I personally promise to continue her legacy by working hard to ensure that Canada's children receive everything they deserve for a life of health, happiness and opportunity.

If I could be personal for a moment, I want to thank Marilyn for just being a good family doctor. She was good for the community. She was good to my mother's family, the Scotts, and she was good to my mother, 95-year-old Doris Scott.

Marilyn, you have been good to me from the day I first arrived five years ago until today. At the end of the day, Marilyn, I think it is fair to say I have always looked up to you.

[Translation]

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I would like to salute a friend and colleague, a respected New Brunswicker who has said farewell to us after only five short years.

[English]

Yes, Senator Trenholme Counsell, you were a dedicated and skilled physician and this, in itself, would have been enough to gain lasting recognition. However, it is in your trail-blazing life as an even higher public office-holder that I drew inspiration for my words today. How can I, another woman and a current parliamentarian, not be awed by all you have accomplished in our province of New Brunswick since the mid-1980s?

[Translation]

Throughout your career as a member of the legislature, a minister, Lieutenant-Governor, and a senator, you have always focused on two special causes: literacy and helping the less fortunate. Your dedication, to this day, to helping and supporting the most vulnerable members of our society defines who you are and makes you a very special individual.

[English]

I fondly remember a program that you helped launch some years back, where new mothers would return home from the hospital with their baby in one arm and a book in the other —

how many people have you gently steered toward literacy that way? I know, for one, that you inspired the New Brunswick Fédération des dames d'Acadie to launch a similar initiative with French books.

[Translation]

All I can do is thank you, dear Marilyn, for everything you have accomplished. Allow me to thank you in advance for continuing to make so many people happy in the years to come, whether as President of the Literacy Coalition of New Brunswick or simply as a person with a big heart. I am very sad to see you go.

I take comfort in knowing that we will still see one another from time to time and share a glass of good wine on your patio at Parlee Beach.

• (1430)

[English]

**Hon. Joseph A. Day:** Honourable senators, knowing how many senators wish to pay tribute to Marilyn Trenholme Counsell, I feel like I have won the lottery in having been chosen to do so.

Honourable senators will know that Senator Marilyn Trenholme Counsell is a product of the picture province of New Brunswick. She spent her formative years in the village of Baie Verte and became a graduate of Port Elgin Regional Memorial School — coincidentally the same high school from which Senator Bryden graduated, but not, he informs me, the same year.

She began her post-secondary education at the beautiful Mount Allison University and continued at other universities, including the University of Toronto, from which she graduated with a degree in medicine. She had a distinguished career as a medical doctor, and that training, combined with her experiences from the practice of medicine, is clearly reflected in her many accomplishments throughout her life.

I first came to know Marilyn when she was elected to the legislature of New Brunswick as part of then Premier Frank McKenna's sweep of all 58 seats in 1987. She served as the MLA for Tantramar and later as Minister of State for the Family and Community Services until 1997, when she was called upon by the Governor General to serve as New Brunswick's twenty-eighth lieutenant-governor. I can attest to her dedication to the people of New Brunswick during her six years as lieutenant-governor and there is not a village, a town, a school or an IODE hall that did not have a visit from Marilyn Trenholme Counsell during that time. She was always available to help with the celebration of community accomplishments and to assist groups working for the benefit of children and youth.

During her five years in the Senate, Marilyn Trenholme Counsell continued her pursuit of early childhood development, health care and literacy through her work on the Standing Senate Committee on Social Affairs, Science and Technology; the Standing Senate Committee on Energy, the Environment and Natural Resources; and as Vice-Chair of the Standing Joint Committee on the Library of Parliament. Her contributions are well known and much appreciated. I will miss my seatmate at the

Liberal Party of Canada's national caucus and her fine sense of humour. I have no doubt that, although we will miss her in the Senate chamber, we have not heard the end of Senator Trenholme Counsell. Once she finishes the round of retirement parties, which seems to be endless, we can expect to hear again from Marilyn Trenholme Counsell — the senator, good doctor, the MLA, the cabinet minister, the lieutenant-governor — as she continues to work toward a better Canada and a better New Brunswick for all citizens.

**Hon. Catherine S. Callbeck:** Honourable senators, I am pleased to join you in paying tribute to our friend and former colleague.

I first met Marilyn at a Liberal convention in Ottawa. Through the years we have become good friends. I have had the opportunity to work with her while we were both members of our respective provincial governments and, of course, here in the Senate.

Marilyn has an incredible record of service as wife, mother, friend, neighbour, community activist, nutritionist, medical doctor, member of the legislature, cabinet minister, lieutenant-governor, senator and now, university lecturer. Throughout it all, she has been a trailblazer. Our society is richer and fuller because of Marilyn.

What has always deeply impressed and amazed me is Marilyn's tremendous enthusiasm and energy. Despite her hectic schedule, she is always there to help, to provide encouragement and support, and to go the extra mile. She has been the patron, honorary patron or chair of more than 75 community organizations.

• (1435)

As Minister of State for the Family in New Brunswick, her initiatives brought the province the United Nations' International Year of the Family Award in 1995.

As lieutenant-governor, she carried out her duties with grace, dignity and style. She reopened the Old Government House as "the people's home," and she welcomed thousands of people from all walks of life. In the year 2002, more than 21,000 people were hosted by Marilyn at receptions, dinners and lunches, and that does not include the 29,000 who toured the building.

As a senator, Marilyn was one of the hardest-working senators I know. She served on a number of committees and made a great contribution to this place.

Honourable senators, we all know that successful politicians are remembered for the contributions that they make to public life. They make a difference in the lives of people, and Marilyn has done and continues to do that through the positive changes she has brought about in literacy, health and early childhood development.

Marilyn, you have made and continue to make a tremendous contribution to your province and country, and we wish you good health and happiness in the years ahead.

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

[ Senator Day ]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of the participants, from around the world, in the Parliamentary Officers' Study Program.

On behalf of the Senate of Canada, we welcome you to this chamber.

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

[Translation]

## ROUTINE PROCEEDINGS

### GOVERNOR GENERAL

SUPREME COURT—COMMISSION APPOINTING  
THE HONOURABLE THOMAS A. CROMWELL—  
DOCUMENT TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, a copy of the commission appointing the Honourable Thomas A. Cromwell, Judge of the Supreme Court of Canada, as Deputy of the Governor General; to do in Her Excellency's name all acts on Her part necessary to be done during Her Excellency's pleasure, dated January 23, 2009.

### JUSTICE

FEDERAL OMBUDSMAN FOR VICTIMS OF CRIME—  
2007-08 ANNUAL REPORT TABLED

**Hon. Gerald J. Comeau (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, the 2007-08 annual report of the Federal Ombudsman for Victims of Crime.

[English]

### CANADA ELECTIONS ACT PARLIAMENT OF CANADA ACT

BILL TO AMEND—FIRST READING

**Hon. Wilfred P. Moore** presented Bill S-224, An Act to amend the Canada Elections Act and the Parliament of Canada Act (vacancies).

(Bill read first time.)

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

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



• (1440)

## CANADA-EUROPE PARLIAMENTARY ASSOCIATION

CONFERENCE OF PARLIAMENTARIANS TO ARCTIC  
REGION, AUGUST 12-14, 2008—REPORT TABLED

**Hon. Yoine Goldstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation on the Eighth Conference of Parliamentarians to the Arctic Region, held in Fairbanks, Alaska, United States of America, from August 12 to 14, 2008.

MEETING OF THE STANDING COMMITTEE  
OF PARLIAMENTARIANS OF THE ARCTIC REGION,  
NOVEMBER 6, 2008—REPORT TABLED

**Hon. Lorna Milne:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation on the Meeting of the Standing Committee of Parliamentarians of the Arctic Region, held in Östersund, Sweden, on November 6, 2008.

## CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

NATIONAL GOVERNORS' ASSOCIATION, ANNUAL  
MEETING, JULY 11-14, 2008—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation to the National Governors' Association, 2008 Annual Meeting, held in Philadelphia, Pennsylvania, United States of America, from July 11 to 14, 2008.

PACIFIC NORTHWEST ECONOMIC REGION, ANNUAL  
SUMMIT, JULY 20-24, 2008—REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation to the Pacific NorthWest Economic Region, Eighteenth Annual Summit, held in Vancouver, British Columbia, Canada, from July 20 to 24, 2008.

CANADIAN/AMERICAN BORDER TRADE ALLIANCE,  
FALL MEETING, SEPTEMBER 14-16, 2008—  
REPORT TABLED

**Hon. Jeremiah S. Grafstein:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation to the Canadian/American Border Trade Alliance, Fall Meeting, held in Washington, D.C., United States of America, from September 14 to 16, 2008.

[Translation]

## THE HONOURABLE MARILYN TRENHOLME COUNSELL

### NOTICE OF INQUIRY

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, with leave of the Senate and notwithstanding rule 57(2), I give notice that later this day:

I will call the attention to the Senate for the purposes of paying tribute to the Honourable Marilyn Trenholme Counsell in recognition of her outstanding career as a member of the Senate of Canada and for her many contributions and service to Canadians.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

[English]

## QUESTION PERIOD

### NATIONAL DEFENCE

#### ARCTIC PATROL SHIPS

**Hon. Willie Adams:** Honourable senators, my question is to the Leader of the Government in the Senate.

At the beginning of the 2006 Conservative election campaign, there was a promise made by the Prime Minister to build three naval icebreakers to patrol the Arctic. My question is with respect to last week's budget and the statement before that six more patrol boats would be built in the future. I have been on one icebreaker, as has Senator Comeau. We were on it for one week about six or seven years ago, and we travelled from Resolute to Kugluktuk.

• (1445)

We have a particular problem in the Arctic. Last November there were some 600 narwhals trapped in the ice. As there was such a great threat to their survival, the community made a request to DFO for permission to kill them all.

There has been concern among the Inuit elders that Arctic mammals may be confused by what is happening with climate change. Every year more whales are trapped in the ice, including belugas and narwhals. We still have icebreakers based between Newfoundland and Nova Scotia. If there is a need for those vessels at this time of the year, it takes two weeks to get up to the Arctic. I hope in the future, if one of those icebreakers is to be built, it will be based in the Arctic. We have money in the budget this year to build a harbour at Pangnirtung. Another 23 communities in Nunavut would like to have a harbour in the future.

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** I thank the Honourable Senator Adams for his question. As I have said before, we appreciate very much the honourable senator's participation in all things concerning Canada's Arctic. He is an excellent advocate and spokesperson for his people.

The budget introduced last week by Minister of Finance Jim Flaherty provides an additional \$17 million over two years to accelerate the construction of the fishing harbour in Pangnirtung. I understand that pre-design and pre-contract work for this

harbour is almost completed. We are working closely with the territorial government on this project and look forward to its completion for the benefit of the people of Nunavut.

The Coast Guard has had a significant presence in the Arctic of late and provides many essential services. Every year we have had seven icebreakers in the Arctic for two seasons, from late June to early November, escorting ships through the ice-covered waters, supplying northern communities, keeping channels open, breaking and clearing ice in the harbours and maintaining navigational aids.

Additionally, three smaller Coast Guard vessels support Arctic science, search and rescue, and aids to navigation in the Beaufort Sea and in the Mackenzie River. As honourable senators know, this is something I am particularly proud of because it expands and continues the work of the late Right Honourable John G. Diefenbaker who, 50 years ago, made the development of the Arctic a priority. I am very happy that our government is addressing that file in a vigorous way.

• (1450)

The government is committed to the Canadian Coast Guard and the renewal of its fleet. In previous budgets, we invested approximately \$1.4 billion for 17 new large vessels, including a new polar icebreaker to replace the *Louis S. St. Laurent*. In Budget 2009 we allocated a further \$175 million to the Coast Guard for the procurement of new Coast Guard small craft and to undertake major repair work on 40 other aging larger vessels.

[Translation]

**Hon. Roméo Antonius Dallaire:** In 1987, under Minister Perrin Beatty, the government came out with a White Paper on Defence. In the leader's reply, she goes back to the era of Prime Minister Diefenbaker in 1959. That white paper stated that six nuclear-powered submarines would be needed to operate effectively under the ice and guard the three oceans around our country. It also called for the construction of a regular base for the army and the air force in the North in order to maintain a constant presence in that part of the country, instead of a temporary deployment, as we have now.

Could the minister tell us whether the government plans to do more than just refurbish aging Coast Guard vessels? Does it or does it not intend to emphasize security in the Arctic Ocean?

[English]

**Senator LeBreton:** I invite honourable senators to check news stories from 1987, when Perrin Beatty advocated under-the-ice nuclear submarines. Go back and read some of the howls of protest that took place at that time in relation to the government even considering nuclear subs.

In answer to Senator Dallaire's question on the defence side, we are committed to implementing the Canada First Defence Strategy, which will ensure that the Canadian Forces have what they need to defend Canada and Canadian interests into the future. Our defence strategy sets out predictable, long-term funding, a framework and vision for the Canadian Forces,

[ Senator LeBreton ]

which will allow Canadian companies to anticipate future requirements and better position themselves to compete for defence contracts specifically as they apply to the Arctic.

The Canada First Defence Strategy represents a significant investment in the country's industry, knowledge and technology sectors that will yield sizeable dividends for every region. As honourable senators know, the government is concerned about exercising our sovereignty in the North, and we are making significant investments through the Canada First Defence Strategy to protect our security.

**Hon. Tommy Banks:** Honourable senators, I expect that the minister will take my question as notice because it is specific. In answer to Senator Adams' question about icebreakers in the North, the leader said there were seven icebreakers in the area between, let us say, Ungava and Halifax. The first part of my question is: How many of those icebreakers were operating in what we commonly regard as the Northwest Passage or the Canadian Arctic Archipelago?

Second, in answering Senator Adams' question, the leader talked about the construction of new ships for the Coast Guard, including a heavy-duty icebreaker. That welcome commitment was made by this government a couple of years ago. Will the leader undertake to determine the stage of planning and construction, for example, in respect to whether a keel has been laid for such a vessel?

**Senator LeBreton:** I happened to be in Inuvik in late August when the Prime Minister announced the new icebreaker, the *John George Diefenbaker*.

• (1455)

Insofar as the honourable senator's specific questions regarding the stage of the various contracts and plans, I would be happy to take that question as notice and get back to Senator Banks with a response.

## FINANCE

### BUDGET 2009

**Hon. Terry M. Mercer:** Honourable senators, I wish to continue that line of questioning, but I will change the topic for a moment. I wish to return to the budget.

The latest budget made little mention of Canada's not-for-profit organizations, the very groups that Canadians will be turning to in these tough economic times. Canada has 161,000 registered charities and non-profit organizations, 12 million volunteers and 2 billion hours of volunteer time. This represents a staggering 8.5 per cent of Canada's GDP.

Many groups, such as the Association of Fundraising Professionals and Imagine Canada, brought forward recommendations to the Finance Minister following the consultation process with organizations across the sector. The government consulted, but did they listen? The answer is simple: No.

Can the Leader of the Government in the Senate tell me what the current budget does for the not-for-profit sector, if anything?

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** As honourable senators know, in Budgets 2006, 2007, 2008, and in the current budget, we have tried to address various concerns. I am aware of the representations made to government from the not-for-profit sector. There is no question that the not-for-profit sector and charities represent a huge contribution to the Canadian economy, not only in the work they do but also through the work of volunteers.

In past budgets we have implemented some tax changes such that people who donate public securities to charities receive a capital gains tax exemption. As honourable senators know, there were broad and wide consultations.

I will be happy to take the honourable senator's question as notice as to what specifically the industry asked for and how the government attempted to accommodate their representations.

**Senator Mercer:** I thank the minister for that answer. I draw her attention, though, to a full-page advertisement in *The Globe and Mail* of January 5, and another full-page advertisement in the *Toronto Star* of Sunday, January 11. A group of people who did not make your list of people who praised the budget signed the advertisement trying to bring attention to the budget.

Although the list is too lengthy to acknowledge here, I will mention some of the signatories: the president and vice-chancellor of the University of Calgary, the president of Dalhousie University, the rector of the University of Montreal, the principal and vice-chancellor of McGill University, the president and CEO of Business for the Arts, Canadian Institute for Advanced Research, and the president and CEO of the Communities Foundation. I will not read them all, as there are too many to put on record.

These people put these advertisements in the newspapers and asked for a couple of simple things. They asked to have gifts of private company shares from capital gains taxes exempted. That is a very important thing for charities in this country these days. We have made some progress, but we need to go the rest of the way. They asked to have gifts of real estate from capital gains taxes exempted, as well as gifts to charities. They asked that the government level the playing field between arm's-length and non-arm's-length employees who exercise stock options and give the shares to charity within 30 days.

These are specific recommendations, and I would appreciate the minister checking with the Minister of Finance to ask why those recommendations were not accepted.

**Senator LeBreton:** I would be happy to take the honourable senator's concerns to the Minister of Finance. I do believe that the measures that were taken in past budgets with regard to public charities were very welcomed by the charities. However, with regard to the specific group that the honourable senator mentioned, I will take those representations to the Minister of Finance and report back to Senator Mercer.

• (1500)

Honourable senators, it is important to point out that the budget consultation process that took place over the Christmas period and right through the month of January was extensive, far-reaching and unprecedented. We are dealing with unprecedented and unusual circumstances never before dealt with by any government of any stripe because of this worldwide financial crisis. Many people have different opinions. Different forecasts appear daily in the newspaper. As some leading economists have said, they are only one voice. No one could have predicted this crisis and no one really knows what will happen next.

We consulted widely. We listened to representatives from the provinces, big and small businesses, labour, municipalities, and regular folks at town hall meetings. We listened to these people and we tried to craft a budget that most people demanded — that is, a budget to provide stimulus immediately to the Canadian economy. This is what we are trying to do, honourable senators. Let us all work together to implement the budget. I will be happy to stand here in six months and let honourable senators know exactly how well we have done, or account for, or answer for the government.

**Senator Mercer:** The consultation process did take place and the government did “hear,” but I am not sure that it understood all of what it heard. As this economic crisis deepens, more and more Canadians will turn to those social service and other agencies serving the people in the small towns and villages and in large cities across this country that will be there to help them when no one else is. This situation needs to be an urgent concern of this government.

Indeed, in a newsletter published today called *The Charitable Times*, the headline reads, “Federal Budget Leaves Charities Out in the Cold.” This situation is a grave concern. As the honourable senator indicated, we see different forecasts every day. None of the forecasts, though, tells us that things will improve soon. If they will not improve soon, then we should be prepared for a bad situation. Two of the major groups in this country that aid us are the charities and not-for-profits that are in place to help Canadians.

I hope that the minister can urge the Minister of Finance to give this issue a higher priority than he seems to have given it thus far.

**Senator LeBreton:** I believe that we underestimate the capacity of Canadians, in a time like this, to help each other. There is awareness in communities across the country that charities will be called upon more frequently to help people.

Honourable senators, public opinion polls that have been conducted show that Canadians want to do their bit; they are willing to help. They support what the government has done and they support the position that the opposition has taken by supporting the budget. They are sending a clear signal that they want us to go to work and to do everything possible to help each other to see the country through this difficult time — a country which, as I have said before and as the International Monetary Fund has stated, is still in a better position than any other country in the G7 to come through this crisis in relatively good shape.

## HEALTH

## AUTISM

**Hon. Jim Munson:** Honourable senators, my question is for the Leader of the Government in the Senate. Last week's federal budget talked a lot about infrastructure. My question is about another kind of infrastructure, namely, social infrastructure.

• (1505)

I talked about it yesterday, as did Senator Oliver, in dealing with autism. I do not need to go over all the figures. One in 150 families is affected by autism.

Parliament has taken steps. We lobbied hard and Minister Clement listened and did some work.

Will the government consider taking a further step to create a division for autism within the Public Health Agency of Canada so that this condition can be looked at, receive the attention it deserves, and families can receive the help they so desperately need? I am looking for that national leadership focus.

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** I am well aware of the honourable senator's hard work on the subject of autism.

As the honourable senator knows, when Minister Clement was Minister of Health he set up a research chair to study ways to move this issue forward. Autism is one of many conditions that falls within the purview of provincial departments of health and, of course, health care is delivered by the provinces.

With regard to the budget, a great deal of money has been set aside at universities for research in science and technology. It is hoped that indirectly, through the money that has been provided to universities, to the science community and to the health system, in addition to all the money that the government transfers to the provinces for health care, the treatment of autism will move forward quickly in the near or immediate future.

With the budget and the actions that the government has taken, in our consultations in various areas, we have tried to reach out to the good suggestions that are there, including the worthy ones of the honourable senator.

Minister Aglukkaq and her officials will have reviewed the files that Minister Clement was working on in terms of autism. I cannot say definitively what they are, but I will find out.

[Translation]

## FINANCE

## BUDGET 2009

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, my question is for the Leader of the Government in the Senate. There is not one word about francophones in her government's 2009 budget.

The Commissioner of Official Languages finds it regrettable that the government chose not to reaffirm its commitment to and support for minority language communities in the 2009 budget. How can francophones believe that the \$1.1 million announced in

the Roadmap for Canada's Linguistic Duality in June 2008 will really be included in the budget when it was not even mentioned?

[English]

**Hon. Marjory LeBreton (Leader of the Government and Minister of State (Seniors)):** Honourable senators, I believe that this government's commitment and all governments' commitment to language duality and support of official languages is a given. I wish to assure Senator Tardif and all honourable senators that there is no ambiguity about the government's support of the official languages community and linguistic policy.

As promised in Budget 2008, as my colleague reminded me, last June our government presented the road map for linguistic duality in Canada from the year 2008 to 2013. We are moving forward with the implementation of this road map. We have an excellent new minister in the person of James Moore, who I can assure honourable senators is committed to this policy. We promised we would come up with a new government strategy and that is exactly what we did by presenting the road map, which for the first time, to my knowledge, includes historic funding of \$1.1 billion over the next five years. This funding represents an unprecedented commitment of the government to our official languages communities. The road map includes, not only increased spending in many sectors targeted by the action plan of the former Liberal government, but also new investments in key sectors such as \$12.5 million for a youth fund and \$14 million for a cultural fund.

• (1510)

Honourable senators, this is like an answer I gave yesterday on another matter. We committed funds as part of Budget 2008. The fact that there has been another budget in 2009 does not mean it cancels out commitments made in 2008. We made the commitments and we will live by them. If the honourable senator has not already met the minister, when she does, she will find that he is extremely committed to this file.

[Translation]

**Senator Tardif:** The communities have been waiting for almost a year. Once again, announcements are made but the money does not materialize. I would like the minister to reassure me and tell me today just when the monies will be distributed.

[English]

**Senator LeBreton:** I do not know what part of "yes" the honourable senator has difficulty accepting. I said that there is no ambiguity. The money is there and the minister is committed to it.

The road map has allocated an unprecedented amount of money to this issue, more than any government in the history of the country. As I rise to give assurance of the government's commitment, I am sorry the honourable senator does not accept my word.

[Translation]

**Hon. Maria Chaput:** My question is for the Leader of the Government in the Senate. We greatly appreciate Minister Moore's statement in which he reaffirms his commitment.

As you know, this road map is the development plan for all official language communities in Canada. The funding received will expire at the end of March. On April 1, 2009, we must have in place new funding for all planned projects in Canada.

Can the minister guarantee that on April 1, 2009, all these groups will receive the funding required to continue the work of developing and enhancing official language communities?

[English]

**Senator LeBreton:** Honourable senators, I will take that question as notice. I am not sure of the process the department is following when people apply for these funds. Obviously, any projects that are to be funded will have to meet the time deadline the honourable senator has stated.

I will seek information from the minister regarding which programs have applied and which programs have received or will be receiving funding.

• (1515)

## ORDERS OF THE DAY

### BANKRUPTCY AND INSOLVENCY ACT

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

**Hon. Yoine Goldstein** moved second reading of Bill S-219, An Act to amend the Bankruptcy and Insolvency Act (student loans).

He said: Honourable senators, let me sincerely congratulate and welcome our 18 new senators who will be bringing to this chamber a variety of life experiences, knowledge, skills and commitment that can only serve to enhance this chamber. You are all very welcome. I think I can speak for everyone that we look forward to working with you.

Honourable senators, I must tell you that I was rather intrigued by the exchange between Senator Duffy and Senator Munson. Both senators remarked that they were people who Canadians looked at, listened to and recognized on their television sets and, earlier, on the radio. I must tell you that I, too, had some Canadians looking at me and listening to me for some 25 years at the University of Montreal. The fundamental difference between Senators Duffy and Munson and me was that I was teaching law and they had to listen to me because I was setting the exams, whereas people willingly listened to Senator Duffy and Senator Munson.

Speaking about post-secondary education provides a good segue into the subject of our discussion today. Canadian universities and post-secondary educational institutions are internationally recognized for providing a first-class education. Canada's competitive advantage in the world economy is due in no small measure to the access afforded to bright young Canadians to our post-secondary education system, which is second to none in the world.

We must ensure, however, 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 this bill in the Thirty-ninth Parliament, I stated that it is neither a Liberal nor a Conservative bill, which indeed it is not. It is a bill for fair and balanced financing of post-secondary education presented in the spirit of non-partisanship. I reintroduce the bill with the belief and hope that honourable senators can come together across partisan lines to ensure that students have the necessary protection and will know that their investment in post-secondary education will not become a crushing burden on them if they fall on hard times due to circumstances beyond their control.

As I said when this bill was first introduced, post-secondary education is, in many respects, invaluable but it does not come cheaply. Indeed, as tuition fees have grown, students increasingly rely on support from government loans or government-guaranteed loans to receive the education they need to find employment in our knowledge-based economy and in the trades.

Student debt has become an inescapable reality for many young Canadians and their families. It is imperative that our government adopt a practical and compassionate approach when dealing with individuals who have trouble repaying student loans. Canadian bankruptcy legislation must follow suit.

At present, bankruptcy legislation does not permit former students experiencing financial difficulty to apply to be discharged from their student loans until a full five years have passed since they have left college or university. This rule applies even if it becomes clear much earlier that the 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 and perhaps thousands of young Canadians have been forced to suffer unreasonable financial hardship because of loans which they obtained in good faith with the view to entering the workforce and contributing to the Canadian economy but which they are now unable to pay because of circumstances beyond their control. Especially at this point in time, many of these students or former students are unable to obtain jobs or have lost their jobs.

• (1520)

Our economic system values judicious risk taking, and bankruptcy is an important part of that system. It provides individuals, businesses and entrepreneurs with a way of dealing with debts they cannot pay back and of eventually starting over so that they can again play an active role in the economy. 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.

When students borrow money for post-secondary education, they are taking the same kind of risk that entrepreneurs take. They are taking a risk in investing in something that is likely, but not guaranteed, to benefit them and to benefit society. Student borrowers should therefore have the right to declare bankruptcy in appropriate circumstances in a timely fashion, just like any investor or entrepreneur, and be released from their debts, just like any investor or entrepreneur.

However, student loans are treated differently from any other kind of loan in bankruptcy proceedings. Student loans are among the few debts that are not subject to discharge in the bankruptcy process. Student loans therefore continue, at least for a period of five years after graduation, to hound and depress students who are unable to repay the loans.

The only debts not included in the bankruptcy process, aside from student loans, are certain court-imposed fines and a limited number of other kinds of debt that are incurred, for instance, by way of fraud. Should we treat student loans as court-imposed fines? Should we treat them as fraud, or should we treat them as an investment?

Currently, a former student cannot be freed of student loans in bankruptcy proceedings until he or she has been out of school for seven years. A former student who is suffering severe financial hardship by reason of personal injury, illness in the family, fluctuations in the job market or any other personal catastrophe must wait five years before that student or former student can apply to the court for the inclusion of their student loans in the discharge mechanism of bankruptcy proceedings.

Bill S-219 would amend the Bankruptcy and Insolvency Act to automatically subject student loan debts to discharge if the bankruptcy occurs more than five years after this student ends his or her studies. It would also allow former students experiencing severe financial difficulty to apply to the court at any time to be discharged from student loan debts in bankruptcy proceedings if the former student can satisfy a judge that the student has acted in good faith in the management of the debt and has and will continue to experience hardship because of the debt. Furthermore, the judge would have to consider, first, the former student's efforts in seeking debt relief from other programs and other assistance; second, the former student's effort to pay the loan; third, the former student's future earning capacity; and, fourth, the former student's current and future financial obligations.

Honourable senators, Bill S-219 would assist young Canadians who borrowed money to pay for post-secondary education but who are unable to repay their loans because of circumstances beyond their control. This bill is for the student who undertakes an engineering degree but must terminate his or her studies because of an unfortunate and unexpected disability. This bill is for the medical student who, having built up substantial debt, must leave university to care for his or her new family before completing medical training. This bill is for young carpenters, plumbers and electricians who must leave trade school to care for an ailing parent before receiving their certification.

This bill is intended to provide a safety net and a shield for unfortunate young Canadians, and to encourage young Canadians to pursue their academic endeavours in the knowledge that if they do not succeed in their economic endeavours and fall on hard times, they will not be oppressed and depressed forever, *ad vitam aeternam*, by the crushing burden of their student loan debt.

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

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

Honourable senators, 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 new technologies."

In a recent report, the Canadian Chamber of Commerce stated that by next year, 75 per cent of all new jobs created — and God knows we need new jobs created — will be high skilled, meaning that those without a post-secondary education will find it more difficult, if not impossible, to secure employment. By 2010, next year, 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 directly, "There is a skilled labour shortage facing Canada." Improving access to post-secondary education is the key way to meet this demand.

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 1991 and 2006. Professional schools experienced the most dramatic tuition hikes, with the cost of medical school in Ontario, for instance, skyrocketing 500 per cent, from under \$3,000 in 1990 to roughly \$50,000 in 2004.

Canada needs more doctors, but students finishing high school must decide to invest a minimum of eight years and about \$100,000 worth of school fees. For many families, these costs are prohibitive and students are forced to borrow money if they wish to attend college or university. One of the additional aggravating elements is that those students who come from families that can afford to pay these fees or help them with these fees are more likely to complete their university education than those who come from families less fortunate from an economic perspective.

Of course, rising tuition fees have been accompanied by growing levels of student debt. On January 21, 2009, barely one month ago, the Canadian Federation of Students reported that this year, total student loans will surpass \$13 billion owed by over 1 million students. This sum does not include the additional approximately \$5 billion in provincial student loans, nor does it account for private bank loans. Moreover, it is found that those students with smaller financial resources tend to incur greater debt.

More students are borrowing money to finance post-secondary education. More assistance is needed to help students pay for post-secondary education. In addition to improving access and funding, we need to ensure that other types of legislation do not discourage young people from pursuing post-secondary education.

Data is beginning to emerge showing that high debt levels affect the choices that people make after they graduate from high school. For example, college and university students might complete one degree or diploma but 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 professional schools usually have much less debt than those who stop after one degree. This finding suggests that student loans could be preventing Canada from having a more highly skilled group of workers and a greater number of professionals.

There are also concerns about equity, as I said earlier, because those who have the advantage of coming from wealthy backgrounds are presumably more likely to complete their education without amassing significant debt and are therefore more likely to continue their studies.

• (1530)

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 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 subsequently defaulted on their loans and then were harassed continually by collection agencies, even though it is clear to all parties that circumstances beyond their control have made payment impossible for them.

One thing has become clear over the last 10 years, and this is essential for an understanding of the philosophy behind this bill: there is absolutely no evidence that students have been abusing the bankruptcy process to rid themselves of student debt. There is no proof any of that occurs; no statistics and no evidence at all. The research is clear and consistent, and should be noted.

Canada needs post-secondary students and post-graduate students. Tuition fees are on the rise. Students rely increasingly on student loans to finance their studies and we have an obligation to find a way to relieve the burden on those who cannot afford to repay their student loans. I do not suggest in this bill that students who have had the benefit of education and the benefit of student loans should be given a free ride. This would be inconsistent with the fact that society and Canada as a whole will have invested in their education. I suggest that we provide a technique supervised by a court and judge with clear criteria to allow former students who have particular difficulty in repaying their loans to be relieved of that difficulty in whole or in part.

Honourable senators, the bill provides that a judge may hold and decide that the student should repay the loan nevertheless; that the student need not pay any part of the loan; or that the student should repay part of the loan and provide a schedule for such repayments. There is no free ride or free lunch. There is a desperate need to provide this safety net for former students who truly need it — young Canadians who have entered the workforce and are unable to repay these loans — so that they may become an integral part of Canadian economic society, free from the crushing burden of their debts. I urge honourable senators to move this bill to committee as quickly as possible. During the last session, the predecessor to this bill, with some differences, had received significant study by the Standing Senate Committee on Banking, Trade and Commerce and the study was virtually finished prior to prorogation. It is imperative to give the bill, on a non-partisan basis, urgent consideration.

(On motion of Senator Comeau, debate adjourned.)

## ANTI-SPAM BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Yoine Goldstein** moved second reading of Bill S-220, An Act respecting commercial electronic messages.

He said: Honourable senators, this bill also saw light during the last session of Parliament. It is intended to put an end to the scourge of spam, which all of us receive in our emails. I said last November during the previous session, when I first introduced the bill, that the world had marked a rather auspicious anniversary—the thirtieth anniversary of the first sending of spam email. 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, Bill S-220 concerns only unsolicited commercial messages—those that promote products, goods, services, investment or gaming opportunities. Those commercial messages account for the vast majority of spam traffic and 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 concepts of freedom of speech in the same way that other forms of communication are protected.

Honourable senators, Canada is the only G8 country that does not have anti-spam legislation. Although an anti-spam task force was established under a previous government and came up with an excellent comprehensive report, we have not followed through with any legislation. Even the public firestorm set off this summer by Bell and TELUS when they announced they would charge 15 cents for each incoming text message for clients without a fixed-rate texting plan failed to sway government authorities despite 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. Although these bills proceeded from different principles to those followed in this bill, they were nevertheless a bold attempt on his part — for which he deserves congratulations — to control and discourage the spam that plagues our country every bit as much as it plagues every other country where the use of the Internet and email is generalized.

Trying to deal with spam generates a host of problems. Much spam is generated extraterritorially, or outside Canada. Messages that some consider spam are considered legitimate advertising by others. Issues of freedom of speech and freedom of expression arise. Political activity could be compromised by a piece of legislation that is too stringent, but a piece of legislation that is too permissive would have virtually no effect because spammers, whatever else might 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 go through the filters. We have all been solicited to buy Viagra at bargain prices on the Web or via email. I sometimes have the notion that I should email back to point out that we, as senators, do not need Viagra. We have all received a goodly number of

plaintive emails, predominantly from Nigeria, but elsewhere as well, telling us that the sender is an orphan or the widow of an oil minister who died in unexplained circumstances. The emails speak of leaving a bank account in a secret place that contains many millions of dollars. They tell us our cooperation is required to transfer the money to a safe haven, like Canada. In exchange, we will receive 20 per cent to 40 per cent of these 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 disappear.

While many of us might not consider spam to be a significant challenge, 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 is up from 10 per cent in 2000.

• (1540)

In concrete terms, there are almost 200 billion spam messages sent each day, give or take a billion or two. An item on the CBC News on December 16 pointed out that Canada is the source, on average, of 9 billion spam messages per day. We receive the fourth largest amount of spam in the world.

To protect consumers from this ever-increasing flood of messages, Internet service providers, known as 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 some \$5 billion annually.

In addition to the costs to ISPs, spam creates significant costs for businesses and individuals in terms of increased funds and costs for Internet service, reduced productivity and losses from fraud. Studies estimated that having employees spend just 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 OECD estimated that spam annually costs companies worldwide \$20.5 billion in lost productivity. That figure has certainly increased since then.

Honourable senators, I do not want to abuse my time but I do want to describe the structure of this bill so that you understand the intent of the bill. I urge you to read it.

There are two ways to deal with spam: one is called “opting in,” and one is called “opting out.” Opting in is a procedure whereby a person or a corporation that agrees to receive spam simply says, “I agree to receive it” and then proceeds to receive it. Opting out is the contrary, obviously. It is the activity on the part of a person or corporation to advise that they do not wish to receive spam. This bill provides for opting in. It says no one can send spam to anyone unless the intended recipient has agreed to receive spam; however, there are certain exceptions.

Charities are exempted and are permitted to send messages to whomever they choose. Political parties are exempted. Candidates running for office are exempted. Certain church and other religious institutions are exempted, and there are certain other exemptions in the bill. The bill itself provides for the

establishment of regulations in the future to exempt certain other organizations if the government chooses to do so. The bill also provides for very significant penalties for those who breach the obligation to not send spam, as much as \$1.5 million in fines.

The bill provides, as well, that any Internet service provider who receives spam from another Internet service provider is permitted to cut out communication with that Internet service provider in the hope and expectation that the offending Internet service provider will stop sending spam. Because a lot of spam originates extraterritorially and because Canadian legislation has traditionally not made laws with extraterritorial effect, we find ourselves, on the face of it, with an impossible situation because, as much as we legislate in Canada against spam, we would not reach the non-Canadian-resident spammers who have no direct ties with Canada.

To avoid that problem — and this is one of the original aspects of this bill — the bill suggests that the commercial beneficiary of the spam is liable, with the spammer, for the same penalties that the spammer would be liable for. In other words, if somebody sends spam from Nigeria or Morocco, which is another large source, or from other places, suggesting that we buy land or Viagra or beauty products from someone in Canada, the “someone” who is the commercial beneficiary of that advertising message becomes liable for the penalties that are envisaged in the law.

Honourable senators, this, too, is a non-partisan bill. This is a bill that has absolutely no political overtones or motivations. It is a bill intended to protect commerce, individuals and to bring Canada on board with the other members of the G8, all of whom have anti-spam legislation. It is a bill that is intended and hopefully is able to minimize but not eliminate spam, because we cannot do that. Experience has shown us that when an ISP in the United States in August cut out another ISP that was distributing spam largely from Nigeria, spam diminished by 62 per cent in three days. This bill, when put into effect, could have that sort of effect.

There is one more element of the bill to bring to honourable senators’ attention. When an ISP in good faith cuts out another ISP who has been sending spam, that first ISP obtains immunity from lawsuit, provided the action was done in good faith. This will encourage ISPs to cut out other ISPs, and I urge honourable senators very respectfully to give speedy treatment and speedy passage to this bill.

**Hon. Tommy Banks:** Will the honourable senator entertain a question?

**Senator Goldstein:** Certainly.

**Senator Banks:** I am the luckiest person on earth because I have four or five hundred people a day telling me I have won lotteries that I have not entered. Will this bill stop my good luck?

**Senator Goldstein:** It will not only stop the honourable senator’s good luck but will bring him more good luck. It will permit him to use his time effectively, as we all know he does, without being bothered by wondering what he will do with all the money he has just received as a result of being a contest winner. I assume



Senator Banks is not one of those people who have responded positively to the Nigerian princesses who want to share their good fortune.

(On motion of Senator Comeau, debate adjourned.)

• (1550)

**THE HONOURABLE  
MARILYN TRENHOLME COUNSELL**

INQUIRY—DEBATE ADJOURNED

**Hon. Claudette Tardif (Deputy Leader of the Opposition)** rose pursuant to notice earlier this day:

That she will call the attention to the Senate for the purposes of paying tribute to the Honourable Marilyn Trenholme Counsell in recognition of her outstanding career as a member of the Senate of Canada and for her many contributions and service to Canadians.

She said: Honourable senators, I am pleased to initiate this inquiry in order to provide the opportunity to my colleagues who did not get the chance earlier today to pay tribute to Senator Trenholme Counsell.

Personally, senator, I would like to add my warmest wishes to those of my colleagues on your well-deserved retirement from the Senate of Canada. I have long admired your courage and resiliency throughout your extraordinary career in both politics and medicine. You have been a strong advocate and a source of inspiration to all Canadians, especially for women and children.

Most of all, I wish to thank you for your continuous support of issues relating to post-secondary education and linguistic rights in Canada. I am grateful for the numerous times you have courageously defended these important issues in the chamber and in committee hearings.

[*Translation*]

As a Franco-Albertan, I would like to express my appreciation for your openness towards francophones during your time in the Senate. Your keen interest in understanding and supporting the challenges faced by minority francophone communities has touched me immensely. I have truly appreciated your determination to speak French whenever we met. Sadly, the Senate has lost an extraordinary francophile.

[*English*]

It has been a real honour and a privilege to serve in this institution with you. My very best wishes; you will be sorely missed. Au revoir.

**Hon. Terry M. Mercer:** Honourable senators, it is my pleasure to join in the tribute to my good friend Marilyn Trenholme Counsell. Knowing Marilyn, working with her and spending good time with her has been one of the great pleasures of having come to this place.

Marilyn, as others have mentioned, was born and raised in the beautiful village of Baie Verte, New Brunswick, and was educated at Port Elgin Regional Memorial School, where, by the way, she

was valedictorian, so one can see that her public speaking started early. She obtained a Bachelor of Science degree from Mount Allison University in Sackville, magna cum laude. She then obtained a Master of Arts degree in 1960, cum laude, as well as a Doctor of Medicine degree, cum laude, from the University of Toronto.

I did not know this until I did some research: She actually practised medicine at the Toronto General Hospital and in Sackville and Port Elgin, New Brunswick, on the staff of the Sackville Memorial Hospital.

She was a founding member of the Tri-Hospital Diabetes Education Centre for the Women's College and Mount Sinai Hospital in Toronto. She launched the Sackville Branch of the Canadian Diabetes Association, a group with which I have had the pleasure of working. In her early years in Toronto, she had time to be a freelance journalist. This woman is no underachiever, as we can tell.

She has been a trailblazer in many ways throughout her life, particularly as a woman in medicine. She is the first and only woman doctor to be elected to the legislature of New Brunswick, to be a cabinet minister in the Government of New Brunswick, to be a lieutenant-governor in Canada, to be appointed to the Senate of Canada and the first woman doctor to receive the Dr. William F. Roberts Political Action Award. Those are a lot of firsts, Marilyn.

I know that many people have said this, so I will try to phrase it as best I can personally: Senator Trenholme Counsell has been a role model and an inspiration to us all. She is a woman of class. She has set the standard very high for those of us who would like to live up to those standards. She has been charming along with all of that. We will miss her, we love her and we wish her well in the next phase of her career.

**Hon. Elizabeth Hubley:** Honourable senators, I would also like to join the chorus of senators paying tribute to our former colleague Marilyn Trenholme Counsell on her retirement from this chamber. A remarkable woman, Senator Trenholme Counsell has been an inspiration to all.

I first saw Lieutenant-Governor Trenholme Counsell at the official opening of the Confederation Bridge some years ago. She was truly an elegant figure in a sea of suits. Many times we have discussed if hats will or will not ever come back, so that was an interesting time for me.

As an outstanding Maritimer whose seat in this chamber was across the aisle from mine, I observed first-hand her dedication as a senator to issues of importance to New Brunswick and to all of Canada, especially her efforts to promote literacy, children's issues and medical issues.

A wife and a mother, Senator Trenholme Counsell has also had additional amazing careers, first as a family physician and nutritionist, and then in the public arena of New Brunswick politics where she served as an MLA, a cabinet minister and Lieutenant-Governor of New Brunswick before being appointed to the Senate to represent her beautiful province.

Senator Trenholme Counsell's presence in this chamber will be sorely missed. I know honourable senators join me in wishing her and her children all the best in what we will call her retirement. Thank you, Marilyn.

**Hon. Percy E. Downe:** Honourable senators, I would like to join my colleagues in paying tribute to Senator Marilyn Trenholme Counsell.

Marilyn Trenholme Counsell was born and raised when opportunities for women were restricted. Someone, however, forgot to tell that to Marilyn. She has had wonderful and numerous careers and has performed outstanding service in the public life of Canada.

Since her appointment for New Brunswick in 2003, Senator Trenholme Counsell has been an active and esteemed member of this chamber. She has worked hard on behalf of her province, region and country, always with great enthusiasm and devotion.

As the first woman doctor appointed to the Senate, she has shared with us her invaluable expertise, experience and passion for making a difference. Marilyn Trenholme Counsell has used this chamber to serve and improve her country. As honourable senators know, her work extends far beyond this chamber and will therefore continue on into her retirement from the Senate.

She dedicates her time to a great many causes across Canada, including in my home province of Prince Edward Island. I thank Senator Trenholme Counsell for her commitment to the Senate of Canada and for her commitment to her country. She is an inspiration to Canadians, especially young women, about what can be achieved in Canada and in public life.

Personally, as I consider legislation that is before the Senate, I will ask myself: What would Senator Marilyn Trenholme Counsell do? Even though she is gone from this place, I will be guided by her wisdom.

**Hon. Tommy Banks:** Honourable senators, I wish to add my congratulations.

Forgive me for speaking directly to Senator Trenholme Counsell, Your Honour, but I cannot refer to someone in the third person who is right here.

We have all been inspired by your trailblazing, as has been referred to previously, but you have blazed some trails here as well. In the committee on which you and I both sat for too short a time, you asked questions that would not have occurred to any of the rest of us but which were entirely cogent to the subject at hand, from which we have learned. I want you to know that there will be a substantial residual benefit to the deliberations on those matters that have derived directly from your interventions and helping us to look at everything in a new light. I thank you very much for that, senator.

• (1600)

**Hon. Joan Fraser:** Honourable senators, it has occurred to me, as I have listened to all these tributes going over the extraordinary list of accomplishments of our former colleague, that they make

her sound like a rather daunting figure; incisive, trail-blazing, first this, first that, all true, but I would like the record to show also a couple of other elements of Marilyn Trenholme Counsell.

The first element is the luminous quality of her smile and of her utterances on behalf of children. It was impossible listening and watching her not to be caught up in the joy that she brought to those issues. Another element is the almost old-fashioned grace that she brought to much of what she did here, and that was coupled with a seeming inability ever to lose her temper. Once or twice, I caught her looking just a tad terse about something, but she quickly controlled herself. She went about her work here, as I am sure she has done everything throughout her life, with good humour, grace and charm.

It is said that one of the key components of charm is the ability to be genuine and to think well of the people with whom one is dealing. Certainly, that last component would qualify Marilyn Trenholme Counsell. I only served briefly on a committee with her, but I came rapidly to the conclusion that if a mass murderer brandishing an axe were to appear before us, Senator Trenholme Counsell would find good in him to perceive. Of no one was that more true than of people from her beloved province of New Brunswick. Her dedication to them and to their welfare shone like the North Star.

I suspect that those qualities have also had a great deal to do with her extraordinary list of successes and accomplishments that we know are not yet concluded.

**Hon. Larry W. Campbell:** Honourable senators, I must say that I had no real knowledge of Senator Trenholme Counsell's past. I am quite glad of that because I am afraid that had I known I would have been quite intimidated by her presence. Instead, I found myself watching her as she listened to other people with a little smile, sometimes a laugh. I would watch to see if she was going to nod her head, which would give me some help — of course, I have not been allowed to join my colleagues on the other side — in figuring out exactly how I would vote on an issue.

I have told the honourable senator that I am prepared to give her my next five years in here and that I will sit back and watch. I know that on both sides of this august chamber it would be met with total unanimity, allowing me to leave for five years.

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

**Senator Campbell:** I also have to say that this wonderful and elegant senator walks the walk and talks the talk. In British Columbia we would refer to her as the "real deal." Good luck in your future.

(On motion of Senator Tardif, for Senator Poy, debate adjourned.)

## BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, on Wednesday, January 28, the Honourable Senator Downe inquired as to why the *Rules of the Senate of Canada*, last published in October 2005, do not reflect the more recent changes. He asked whether I would look into the matter, which I have done and wish to report to

Senator Downe and the house what I discovered, namely, that the revised versions of the rules are considered by the Standing Committee on Rules, Procedures and the Rights of Parliament before being tabled in the Senate, printed, distributed and posted on the Internet.

My inquiry has led me to understand that the committee has not yet approved the revised version. For your reference, I note that since the last printing of the rules there have been two changes. On June 27, 2006, the Senate adopted the Second Report of the Standing Committee on Rules, Procedures and the Rights of Parliament, adding to rule 28 sections (3.1) and (3.2). These provisions dealt with procedures to be followed in the Senate when user fee proposals are tabled.

On October 30, 2006, the Senate adopted the third report of the same committee, recommending that the name of the Standing Senate Committee on Foreign Affairs be changed to the Standing Senate Committee on Foreign Affairs and International Trade.

I trust that this report is helpful to all honourable senators.

[*Translation*]

### ADJOURNMENT

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

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

That when the Senate adjourns today, it do stand adjourned until Tuesday, February 10, 2009, at 2 p.m.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

(The Senate adjourned until Tuesday, February 10, 2009, at 2 p.m.)

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# THE SENATE OF CANADA

## PROGRESS OF LEGISLATION

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

**(2nd Session, 40th Parliament)**

**Thursday, February 5, 2009**

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

### GOVERNMENT BILLS (SENATE)

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-2	An Act to amend the Customs Act	09/01/29							
S-3	An Act to amend the Energy Efficiency Act	09/01/29							

### GOVERNMENT BILLS (HOUSE OF COMMONS)

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.

### COMMONS PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.

### SENATE PUBLIC BILLS

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-201	An Act to amend the Library and Archives of Canada Act (National Portrait Gallery) (Sen. Grafstein)	09/01/27							
S-202	An Act to amend the Canada Elections Act (repeal of fixed election dates) (Sen. Murray, P.C.)	09/01/27							
S-203	An Act to amend the Business Development Bank of Canada Act (municipal infrastructure bonds) and to make a consequential amendment to another Act (Sen. Grafstein)	09/01/27							
S-204	An Act to amend the National Capital Act (establishment and protection of Gatineau Park) (Sen. Spivak)	09/01/27							
S-205	An Act to amend the Criminal Code (suicide bombings) (Sen. Grafstein)	09/01/27							

No.	Title	1 <sup>st</sup>	2 <sup>nd</sup>	Committee	Report	Amend	3 <sup>rd</sup>	R.A.	Chap.
S-206	An Act respecting the office of the Commissioner of the Environment and Sustainable Development (Sen. McCoy)	09/01/27							
S-207	An Act to amend the Employment Insurance Act (foreign postings) (Sen. Carstairs, P.C.)	09/01/27							
S-208	An Act to amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	09/01/27							
S-209	An Act to amend the Criminal Code (protection of children) (Sen. Hervieux-Payette, P.C.)	09/01/27							
S-210	An Act respecting World Autism Awareness Day (Sen. Munson)	09/01/27							
S-211	An Act to require the Minister of the Environment to establish, in co-operation with the provinces, an agency with the power to identify and protect Canada's watersheds that will constitute sources of drinking water in the future (Sen. Grafstein)	09/01/27							
S-212	An Act to amend the Canadian Environmental Protection Act, 1999 (Sen. Banks)	09/01/27							
S-213	An Act to amend the Income Tax Act (carbon offset tax credit) (Sen. Mitchell)	09/01/27							
S-214	An Act to regulate securities and to provide for a single securities commission for Canada (Sen. Grafstein)	09/01/27							
S-215	An Act to amend the Constitution Act, 1867 (Property qualifications of Senators) (Sen. Banks)	09/01/27							
S-216	An Act to amend the Federal Sustainable Development Act and the Auditor General Act (Involvement of Parliament) (Sen. Banks)	09/01/27							
S-217	An Act respecting a National Philanthropy Day (Sen. Grafstein)	09/01/27							
S-218	An Act to amend the Parliamentary Employment and Staff Relations Act (Sen. Joyal, P.C.)	09/01/29							
S-219	An Act to amend the Bankruptcy and Insolvency Act (student loans) (Sen. Goldstein)	09/02/03							
S-220	An Act respecting commercial electronic messages (Sen. Goldstein)	09/02/03							
S-221	An Act to amend the Financial Administration Act (borrowing of money) (Sen. Murray, P.C.)	09/02/04							



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