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Governance of Canadian Businesses Emergency Bill

Second Reading—Debate Adjourned

Hon. Céline Hervieux-Payette moved that Bill S-235, An Act to provide the means to rationalize the governance of Canadian businesses during the period of national emergency resulting from the global financial crisis that is undermining Canada's economic stability, be read the second time.

She said: Honourable senators, it is my great pleasure to speak today at second reading of Bill S-235, the Governance of Canadian Businesses Emergency Act, 2009. This bill provides the means to rationalize the governance of Canadian businesses during the period of national emergency resulting from the global financial crisis and undermining Canada's economic stability. This bill is in line with the commitments

made by G20 nations at the London meeting in early April.

The Communiqué from the London Summit focuses on the fact that major failures in the financial sector and in financial regulation and supervision were among the fundamental causes of the crisis.

I would like to read one of the major commitments world leaders made in London.

Strengthened regulation and supervision must promote propriety, integrity and transparency; guard against risk across the financial system; dampen rather than amplify the financial and economic cycle; reduce reliance on inappropriately risky sources of financing; and discourage excessive risk-taking.

To that end, the G20 adopted two specific measures.

On the one hand, regulation and oversight will be extended to all systemically important financial institutions, instruments and markets. This will include, for the first time, hedge funds. On the other hand, tough new principles on pay and compensation will be implemented to support sustainable compensation schemes and promote the corporate social responsibility of all firms.

The first part of Bill S-235 relates to public companies that receive financial relief from the Canadian government in times of crisis. Canadian taxpayers will invest billions of dollars in struggling industries to protect Canadian businesses and jobs. It is therefore only natural that the recipient companies and their officers should be accountable to the public. This bill prohibits those companies from paying dividends to their shareholders

during the relief period in order to ensure that all revenues go towards recovery.

Officers are also subject to other measures. As is being done in the United States and in Germany, the annual salaries of the officers of recipient companies will be capped at \$500,000 in Canadian funds. Their remuneration could be enhanced by a bonus, for instance, but that bonus may not exceed a third of their salary.

The companies affected are those that receive relief from the government and operate in key industries in the Canadian economy, specifically, financial services, the forestry industry, the agri-food industry, shipyards, automotive parts and manufacturing, and the aerospace sector.

It is true that the problems Canada is experiencing originated in the United States and Europe, and that they stemmed from the collapse of the housing market in certain countries and the collapse of major international financial institutions. However, great leaders are stepping up to correct the current slump. How can we not commend the intelligence and determination shown by President Barack Obama, who, with exceptional speed, wants to restore the dignity of struggling Americans and who has no qualms about shaking up the financial elite who were too greedy.

Just a few days ago, in a lengthy interview with the *New York Times*, the top man in the White House shared his reflections on the current crisis, on the profound change he hopes to see during his presidency and on his vision for a new industrial financial world:

[*English*]

What I think will change, what I think was an aberration, was a situation where corporate profits in the financial sector were such a heavy part of our overall profitability over the last decade. That I think will change. And so part of that has to do with the effects of regulation that will inhibit some of the massive leveraging and the massive risk-taking that had become so common. . . . And I actually think that's healthy. We don't want every single college grad with mathematical aptitude to become a derivatives trader. We want some of them to go into engineering, and we want some of them to be going into computer design.

You will see some shift, but we will not lose the enormous advantages that come from the transparency, openness and reliability of our markets. If anything, a more vigorous regulatory regime will help restore confidence, and you will still see a great deal of global capital wanting to park itself in the United States.

(1440)

Mr. Obama gave meaningful thought to Canadian regulation. The president compares our country to his using the example of the AIG failure. Mr. Obama said the following:

Even with the best regulators, if you start having so much differentiation of functions and products within a single company, a single institution, a conglomerate, essentially, things could potentially slip through the cracks. And people just don't know what they're getting into. I mean, I guarantee you that the average A.I.G. insurance policyholder had no idea that this stuff was going on. And in that sense I think you can make an argument that there may be a breaking point in which functions are so

different that you don't want a single company doing everything.

But when it comes to something like investment banking versus commercial banking, the experience in a country like Canada would indicate that good, strong regulation that focuses less on the legal form of the institution and more on the functions that they're carrying out is probably the right approach to take.

[Translation]

In fact, the robustness of Canada's banks was often the envy of other countries while major institutions abroad were losing most of their value. Canada now has 5 of the 50 largest banks in the world. Ten years ago, it did not have any.

Experts rightly pointed to the fact that Canada has been farsighted in the way it regulates its banking system.

As a member of the Standing Senate Committee on Banking, Trade and Commerce, I took part with pride and keen interest in the major reform of the Bank Act in 1997. By the way, the committee should soon be called on to look at this act again, since legislation is usually updated after 10 years, and it has now been 12 years.

Despite all our precautions, our financial institutions behaved negligently as well. In addition, the directors and executives of Canadian businesses often acted inappropriately, and this had a negative impact on the economy and on Canadians.

A number of Canadian banks lost colossal sums of money as a result of losses on assets they held in the United States, and they had to post enormous losses on their balance sheets. Many large insurance companies also

posted losses in 2008 because of risky investment management.

Unfortunately, thousands of Canadian retirees lost everything. In a moving interview on CBC television, a retired woman from Toronto, who was visibly shattered, said:

My retirement savings are all gone. At 71, I am being forced to go back to work, and I don't think it's funny.

We cannot keep on compensating companies for failures and abuses. It is the government's responsibility to oversee the management of our corporations, and that inevitably means controlling the compensation paid to executives of corporations that receive assistance out of Canadian taxpayers' dollars.

If we wish to correct the management shortcomings of our corporations we must diligently put in place a new code of conduct for the boards of public companies and those listed on the stock exchange.

For that reason, my bill contains provisions applicable to all public companies listed on the stock exchange. Certain measures will increase board members' responsibilities and they will have to better inform shareholders of their decisions given that they represent the latter.

The legislation contains a measure whereby an individual may not sit on the board of directors of more than four corporations.

The board of directors shall present, at the shareholders' meeting, the principles and structures for the remuneration of its officers. These shall be subject to a mandatory, advisory vote.

The annual report submitted to shareholders shall contain a statement of benefits including remuneration, travel expenses, attendance at conventions, use of motor vehicles and others.

And, as the renowned American economist, Jeffrey Sachs, so aptly stated at the Montreal Millennium Summit:

We were derailed by the values that guided us over the past 25 years.

This is his explanation of the current crisis:

We stopped regulating financial markets, we stopped paying attention to the problems of the poor and we failed to address the environmental challenge. What is happening today has not been caused by technical errors but by our abandonment of fundamental social principles.

In his latest bestseller, *The Ascent of Money*, British historian Niall Ferguson uses a few figures to show the evolution of the economy and finance, which perfectly illustrate the downturn.

In 2006, the global economy was valued at US \$47,000 billion. The global value of all corporations listed on stock exchanges was \$51,000 billion, or 6 per cent higher. The value of domestic and international debt, \$68,000 billion, was 50 per cent higher. The value of all derivatives was \$473,000 billion, which was 10 times the value of the global economy.

"Planet Finance", he said, "was beginning to dwarf Planet Earth".

Honourable senators, Bill S-325 opens an important and fundamental debate on our economy and the social values we wish to

uphold for ourselves, our children and our grandchildren.

As parliamentarians, we have the power to change things and correct the abuses that have done such harm to our fellow citizens.

I will close with some words from a recent publication by legendary Canadian novelist and essayist, Margaret Atwood. Talking about her latest book, *Payback: Debt and the Shadow Side of Wealth*, she said:

Money is a recent arrival in the annals of human history. Its original purpose was to make it easier to exchange goods.

Then money mutated and spawned the financial system we are familiar with today. And here we are.

Our creation is now out of control, much like Frankenstein's monster. It works well at first but then things get scary.

This bill is the first in a series of changes to our financial system. Other legislation will be introduced. Honourable senators, I invite you to participate in the monumental debate going on around the world. Let us hope that nothing will be as it was.

[English]

Hon. Fred J. Dickson: Will the honourable senator permit a question?

Is the honourable senator enunciating Liberal policy? I am curious. It is shocking to me. In the short time I have been here, I have learned many positive things from the other side, but today I am shocked.

Senator Hervieux-Payette: Maybe my young new colleague will learn that senators are independent, because they are appointed,

and they can say whatever they want. They are not obliged to run in the next election. People who know me know that I am independent minded, and that I consult the population to tell us what we can expect in the years to come and also to ask why the government has not acted as the government did the United States. The president of General Motors in the United States is limited to a salary of \$500,000, but the salary of the president of General Motors in Canada is not limited.

This government should take action immediately, and I am proud of what I have tabled.

(On motion of Senator Comeau, debate adjourned.)