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Monday, October 28, 2013

The Honourable NOËL A. KINSELLA
Speaker

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

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The Senate

Monday, October 28, 2013

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

Prayers.

[Translation]

I want to applaud, once again, the successful conclusion of the negotiations between Canada and the European Union. We have just concluded an unprecedented agreement that will vitalize our trade relationship with our European partners.

[English]

SENATORS' STATEMENTS

CANADA-EUROPEAN UNION COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

Hon. Suzanne Fortin-Duplessis: Honourable senators, I am delighted to talk about the historic agreement concluded between our country and the European Union on October 18. The signing of this comprehensive economic and trade agreement is the culmination of four years of intense negotiations. This agreement will give our businesses access to a market of more than 500 million consumers.

It is estimated that Canada will enjoy economic spinoffs from this agreement to the tune of \$12 billion annually, as well as a diversified export market. This agreement will enhance the vitality and innovation of our businesses. Canada is the first G8 country to sign an agreement of such scope with the European Union.

Our government has gone through complex negotiations that will have a significant impact on trade between these 28 countries and Canada. It is important to note that, as stakeholders, Canada's provinces were consulted extensively throughout these negotiations.

This agreement is part of Canada's long-standing trade tradition. Our country has been interested in open markets for its entrepreneurs and merchants since before Confederation. From the 19th-century Canadian-American Reciprocity Treaty to NAFTA and even the most recent accords signed with Chile, Colombia and Costa Rica, we see how much these accords have benefited our country and our partners.

I can only hope that we will continue down this path of freer trade and contribute to breaking down the international barriers our businesses are dealing with.

At this time of great global economic and financial uncertainty, the Canadian government is paying particular attention to the economy because we know all too well that the prosperity and well-being of the Canadian people depend on a strong and stable economy. Since being elected in 2006, the Canadian government has taken on the difficult task of creating wealth for all Canadians. The government's efforts are translating into encouraging signs in economic indicators such as job creation and a sustained credit rating.

NATIONAL HOUSEHOLD SURVEY

Hon. Catherine S. Callbeck: Honourable senators, since May of this year, Statistics Canada has been releasing the results of the first voluntary National Household Survey. The final installment of the survey's results, which was delayed after Statistics Canada found problems with its data, was released in September.

Unfortunately, for governments, policy-makers and community organizations across the country, this new voluntary survey has been a deep disappointment. The data released does not paint an accurate picture of the Canadian population. Even Statistics Canada admits this is so. There are disclaimers in the survey publications that warn users about the unreliability of some data.

This unreliability can be attributed to the less-than-stellar response rate for the voluntary survey. In 2006, 94 per cent of Canadians who received the 2006 long-form census completed it — an excellent response rate — but in 2011, just 69 per cent of Canadians participated in the voluntary survey. It did not come close to the response rate from the long-form census, and the results reflect it.

For communities of less than 25,000 people, the results were even less reliable, so Statistics Canada chose to withhold the data that did not meet their reporting standards. As a result, more than 1,100 small municipalities across the country were not included.

Now, we all know that the vast majority of P.E.I.'s communities are small. As a result, many of these communities in my province have been left out of Statistics Canada's results, including Alberton, Murray River, Murray Harbour, Abram's Village, North Rustico, Tyne Valley, Miscouche, and half the First Nations communities. Thousands of Islanders are not represented by this data at all.

Worse still, this new survey has cost more. Even without accounting for the errors in the final installment, Statistics Canada has said the survey cost \$652 million, 15 per cent more than the \$567 million spent on the 2006 census.

This Conservative government has so far been oblivious to the provincial and municipal governments, to the volunteer groups and charities, to the policy-makers, to the former Chief Statistician, and more will continue to voice their alarm. Minister Wes Sheridan, P.E.I.'s Minister of Finance, said:

I remain concerned about the federal government's decision to abolish the mandatory long-form census. This is the first year we are relying upon data gathered through

the voluntary National Household Survey. The data is not as complete as it has been, and I sincerely hope that the federal government will consider reinstating the long-form version for the 2016 census.

Honourable senators, I urge the government to bring back the long-form mandatory census in time for 2016. We simply can't afford to lose this objective and independent information.

• (1410)

WOMEN'S HISTORY MONTH

Hon. Asha Seth: Honourable senators, I rise to speak about Women's History Month. Each October, Women's History Month celebrates the contributions that women have made in shaping our society. For us senators, none could be more important than the group of women known as the Famous Five.

As you know, in 1927 Emily Murphy and four other prominent Canadian women — Nellie McClung, Irene Parlby, Louise McKinney and Henrietta Muir Edwards — asked the Supreme Court of Canada to answer the question: Does the word "person" in section 24 of the BNA Act include female persons?

After five weeks of debate and argument, the Supreme Court of Canada decided that the word "person" did not include women.

The five women were shocked by the Supreme Court decision but did not give up the fight. They took their case to Canada's highest court of appeal, in London. On October 18, 1929, it was announced that:

... the exclusion of women from all public offices is a relic of days more barbarous than ours. And to those who would ask why the word "person" should include females, the obvious answer is, why should it not?

The Famous Five not only won the right for women to serve in the Senate but helped pave the way for women to participate equally in, and contribute equally to, all other aspects of life in Canada. We mark this achievement on Persons Day every October 18, and the Famous Five sit forever among us as honorary senators.

Their legacy can be seen in the thirty-eight female senators that sit in the chamber today.

But what about politics? Well, it was Margaret Thatcher who said that "In politics, if you want anything said, ask a man. If you want anything done, ask a woman."

Honourable senators, please join me in celebrating women's history, not just today, but every day.

AUTISM AWARENESS MONTH

Hon. Jim Munson: Honourable senators, October is Autism Awareness Month. For individuals and groups dedicated to autism issues in Canada, this occasion is an opportunity to carry out public awareness and advocacy initiatives.

As we all know, there are tens of thousands of people within our country's autism community, each with his and her own unique story and role. What they have in common is commitment to action and the ever-motivating knowledge that, despite the tremendous advancements they achieve every day, there is always more to be done.

Last month, I was in Woodstock, New Brunswick, to speak at the first meeting of a friendship group for families of children with autism. There were about 20 women in the room — mothers and grandmothers of children with autism. All of them are seeking change but are at a loss for where to begin. Services and resources available through the provincial government are inadequate in New Brunswick, and the system for accessing them is difficult to decipher.

I do speak to autism groups very often. Every group is distinct, but this one really surprised me. The stories of the people I met are like those I heard more than a decade ago, when I first set out to learn more about autism. You might remember that six short years ago in the Senate and at the Standing Senate Committee on Social Affairs, Science and Technology I urged a study, and then we released a report, *Pay Now or Pay Later: Autism Families in Crisis*. That report got people's attention. I wish it would get the attention of reporters in the gallery today. It united and rallied members of the autism community around a set of strong recommendations. The recommendation that Canada create a national autism spectrum disorder strategy stands out this day as the only effective and moral response to the autism crisis in this country.

For thousands of Canadian families dealing with autism, the challenges are harder than they have to be. It is not just a matter of needing better autism services and resources; it's also a matter of ensuring that services and resources are consistent and equally accessible everywhere in this country.

As we approach the end of Autism Awareness Month, the campaigns promoting a national ASD strategy will wind down, but the need for a strategy will continue to grow more and more urgent.

I urge you, honourable senators, to take action, to do whatever it is you can to persuade the federal government to rise to its responsibility and meet this need for once and for all.

BANGLADESH

DHAKA BUILDING COLLAPSE

Hon. Salma Ataulhjan: Honourable senators, we all heard of the collapse of the Rana Plaza garment factory in Dhaka, Bangladesh, this past April. It was heartbreaking to see the images of bodies being pulled from the rubble and hear of the over 1,100 dead and 2,500 injured.

I had the opportunity to go to the site of the Rana building in July and wanted to tell you of my visit.

I had seen the images, but nothing could prepare me for the horror I saw. What was once an eight-storey building had become a gaping hole filled with rainwater. When I arrived at the site, I

was surrounded by men and women holding photographs of young people. These were parents of young garment workers whose bodies had still not been recovered. These mothers and fathers had been coming back to the site every single day since the collapse, hoping their children would be found. Unfortunately, the site is now closed, and further digging is no longer possible.

At the site, I happened to meet a Canadian journalist, Félix Séguin, who was stunned to see another Canadian at the site, let alone a senator. He was reporting on whether compensation had been received by victims and their families, notably from Loblaw's Joe Fresh. He said, "Will you speak on behalf of these people?"

On returning to Canada, I contacted Loblaw and spoke to Bob Chant, Senior Vice President of Corporate Affairs and Communications.

Honourable senators, we and all Canadians can be proud of the leadership demonstrated by Loblaw. Just last week, they announced that Loblaw will begin providing long-term, direct financial compensation to the victims and their families.

Not only will Loblaw provide compensation to its own workers, but it is encouraging all brands involved in production at Rana Plaza to provide compensation. Should these brands not step forward, Loblaw, along with U.K.'s Primark, will contribute to payment for the individuals involved, regardless of the brand they produced.

I am a great supporter of the nearly 4 million Bangladeshis who are dependent on the garment industry as their major source of income, many of whom are young women. We can find pride in the fact that in light of this tragedy a Canadian company has done what is right and supported these workers.

ROUTINE PROCEEDINGS

PROPOSED QUEBEC CHARTER OF VALUES

NOTICE OF INQUIRY

Hon. Mobina S. B. Jaffer: Honourable senators, I give notice that, two days hence:

I will call the attention to the Senate to the negative effects of the Quebec Charter of Values on Canadians.

QUESTION PERIOD

INDUSTRY

CANADIAN TOURISM COMMISSION

Hon. Catherine S. Callbeck: Honourable senators, my question is to the Leader of the Government in the Senate. This past spring I rose in this chamber to ask about the government's decision to continue the troubling trend of reducing Canada's Tourism Commissions' advertising budget, when Canadian tourism numbers continue to decline. In a new report, the Canadian Chamber of Commerce has confirmed that the industry, which contributes \$80 billion to the economy every year, is experiencing a serious and abrupt decline.

• (1420)

In 2002, 20 million foreign visitors came to Canada, making it the seventh most visited country in the world. Ten years later, in 2012, that number had dropped to 15.9 million, knocking it down 11 spots, to eighteenth most visited. Despite this astonishing drop, the government cut the Canadian Tourism Commission's budget by \$63 million this year.

When will the government stop turning its back on the tourism industry and give the CTC the money it needs to market Canada on the world stage?

Some Hon. Senators: Hear, hear.

[Translation]

Hon. Claude Carignan (Leader of the Government): Senator Callbeck, I will take your question on tourism as notice and provide a complete answer. I would like to say at this time that, as you know, we attach a great deal of importance to this industry.

[English]

Senator Callbeck: I certainly look forward to hearing the leader's answer because I don't see any sign that the government thinks this is an important industry. I just can't understand how a government that claims to be so concerned with jobs and the economy would allow such a vital industry to decline under its watch.

In this country, tourism employs 1.6 million Canadians. That's 9.2 per cent of the total work force. Yet the council that's responsible for promoting Canada here and abroad has seen its budget cut by 40 per cent since 2010-11.

My province, much like other parts of Canada, relies heavily on tourism and I am extremely concerned what this decline will mean for the province, other parts of Canada, its work force and the

economy. The Leader of the Government says he will get back to me. I would like to know why this government is ignoring a problem of such magnitude.

[Translation]

Senator Carignan: Honourable senators, as I said, we attach a great deal of importance to all industries that create jobs. Tourism is an important component of the Canadian economy. I will get back to you with more specific answers.

I would like to say that my own travel expenses are very high and, that also being the case for a good number of Canadians, tourism has an enormous economic impact on our country. That is why we are making it a priority.

[English]

FOREIGN AFFAIRS

CANADIAN VALUES—PARTICIPATION IN COMMONWEALTH EVENTS— PARLIAMENTARY PROCESS

Hon. Grant Mitchell: Would the Leader of the Government in the Senate comment on whether this is coincidence or far more than just coincidence? This Prime Minister has done very little to preserve the Canadian brand internationally. More recently, he refused to speak in front of the United Nations—190-odd nations and their leaders. He offended the Commonwealth nations by saying he was going to cancel our funding of the Commonwealth. These are just the latest, almost incomprehensible international manoeuvres and positions that this government has taken over the last eight years that have offended vast swaths of the world.

Is there any correlation between the fact that tourism in our country is dropping and this government's poor efforts to sustain the Canadian brand abroad?

[Translation]

Hon. Claude Carignan (Leader of the Government): With respect to Canada's relationship with the United Nations, as you know, Senator Mitchell, we have concerns about the actions of some UN agencies, but in general, we have a very good relationship with the United Nations.

We are staunch supporters of the United Nations World Food Programme and one of its biggest donors. Our government's stated goal is to focus on freedom, democracy and the rule of law in our relations with other countries. We take a strong stand based on our principles, whether or not they are well received. That is what the world can expect from Canada. We will continue to make the United Nations a more effective organization that respects its founding principles.

As for the issue of tourism, I hope you will find the answer you are looking for in the written response that will be tabled here in the Senate at Senator Callbeck's request.

[English]

Hon. Hugh Segal: Honourable senators, I wonder, in view of the fact that our friend from Alberta modestly overstated the Prime Minister's position with respect to the Commonwealth, his

position being that he would not be attending the conference in Sri Lanka because Sri Lanka has moved against and fallen back against core values of human rights and rule of law, judicial independence and—

Some Hon. Senators: Oh, oh!

Senator Segal:—unlike the British government, the Canadian government has made no cuts to the Commonwealth funding. Our government indicated that the activities of the secretariat would be under review in case funds might be better allocated to other important Commonwealth activities, like the Commonwealth Human Rights Initiative in New Delhi.

In view of that, would the leader like to comment on the commitment of our Prime Minister to human rights, the rule of law and international service in support of those values?

[Translation]

Senator Carignan: Honourable senators, we will continue to work with our partners and the United Nations to urge the Sri Lankan government to fully implement the recommendations made by the Lessons Learnt and Reconciliation Commission, and to promote respect for human rights and the rule of law. Canada is of the opinion that if the Commonwealth is to remain relevant, it must serve to defend the fundamental principles of freedom, democracy and respect for human dignity, which are the very foundation of its existence.

[English]

Senator Mitchell: Why is it then that when the government is going to such great lengths — if that is, in fact, the case — to defend the rule of law and due diligence in the process of law in Sri Lanka, it is playing so fast and loose with due process and the rule of law right here in this very Senate when it comes to dealing with three of our colleagues?

An Hon. Senator: Hear, hear.

[Translation]

Senator Carignan: Honourable senators, regarding the issues related to our three colleagues, you have been here longer than me, so you should be more familiar than I am with parliamentary procedure and how, within a British parliamentary system, the committees and subcommittees carry out the various investigations, and how, at all stages — whether the Deloitte audit, the various meetings with the senators regarding their reports, the various subcommittee meetings that were held to allow the senators to share their points of view, the report of the subcommittee of the Internal Economy Committee — all the opportunities the senators were given over time to explain their points of view, particularly last week and this week in this chamber.

That is how a Parliament based on the British system works and how it ensures respect for the right to be heard.

• (1430)

We are not showing respect for an individual's right to be heard in our existing parliamentary system if we import rules from civil, criminal or disciplinary courts, which involve investigation, arguments and cross-examination.

[Senator Callbeck]

[English]

Senator Mitchell: Surely Mr. Harper has purportedly taken the high road in Sri Lanka because he wanted to ensure that that judicial process would ensure that the accused are represented by counsel; that the accused get to question and cross-examine their accusers; that the accused, if ever they become convicted and punished, are not punished arbitrarily but there's some sort of structured way that's preformed and pre-considered in their set of laws. Surely that would be what the Prime Minister would be standing up for. Why wouldn't he be standing up for exactly that in this chamber at this time?

[Translation]

Senator Carignan: I get the impression that you are questioning the work done by our colleagues on the Standing Committee on Internal Economy, Budgets and Administration and its subcommittee. They worked very hard to present comprehensive reports to the chamber on the violations that have been acknowledged in the case of our three colleagues. Senators on your side also participated in both the Internal Economy Committee and the subcommittee, and these reports were tabled, in the cases of Senator Brazeau and Senator Duffy, in the Senate. They were adopted by all of our colleagues, maybe with a few exceptions, but I do not remember a vote on the subject or a dissenting opinion.

I do not understand why you are calling into question the quality of the work done by your colleagues, including colleagues on your side.

[English]

NATIONAL DEFENCE

COMMUNICATIONS SECURITY ESTABLISHMENT CANADA—PARLIAMENTARY OVERSIGHT

Hon. Wilfred P. Moore: Honourable senators, my question is also for the Leader of the Government in the Senate.

Mr. Leader, when I asked you last Thursday about the need for stronger parliamentary oversight over the Communication Security Establishment of Canada, CSEC, you said:

... we... are satisfied with CSEC's activities. They are legal. All of the agency's activities are subject to an independent review, as I was saying, and have been for 16 years now. It is reported that the agency continues to conduct its activities in compliance with the law.

However, the commissioner, in his annual report for 2013, states the following:

... a small number of records suggested the possibility that some activities may have been directed at Canadians, contrary to law. A number of CSEC records relating to these activities were unclear or incomplete. After in-depth

and lengthy review, I was unable to reach a definitive conclusion about compliance or non-compliance with the law.

This would suggest that the commissioner could not fulfill his mandate, an awkward position for the government to be in.

What has the government done? What steps has it taken to rectify the situation?

[Translation]

Hon. Claude Carignan (Leader of the Government): We have reviewed the matter and are satisfied with CSEC's activities. They are legal. All of the agency's activities are subject to an independent review by the CSE Commissioner, and have been for 16 years now. It is reported that the agency continues to carry out its activities in compliance with the law. We will not comment on specific foreign data collection activities or capacities.

[English]

Senator Moore: It has been reported that CSEC maintains two databases containing information about Canadians: one dealing with threats to government computer databases and the other regarding international affairs, security and defence, both of which can be held indefinitely and the latter bank of data being exempt from the Privacy Act.

If CSEC is protecting Canadians, why does it possess these two databases?

Senator Mercer: Good question.

[Translation]

Senator Carignan: The current CSE Commissioner, former justice of the Court Martial Appeal Court of Canada, the Honourable Jean-Pierre Plouffe, is already ensuring independent oversight, which includes independent auditing to make sure that the agency's activities continue to be carried out in accordance with the law. I will not comment any further on this issue.

[English]

Senator Moore: Why do we have these two banks of data containing information on Canadians if that is not permitted under the law of our country?

Senator Munson: Good question.

Senator Mercer: Back to the rule of law!

[Translation]

Senator Carignan: Under the law, this organization is not authorized to target Canadians. All of the organization's activities are reviewed by the independent oversight body. The CSE Commissioner has access to all the documents related to the agency's operations and staff. The commissioner's reports indicate that CSEC's activities have been compliant for 16 years.

[English]

Senator Moore: Again I ask: If it's acting in compliance with the law, and the law is you're not to gather information on Canadians, why do we have these two databases gathering information on Canadians?

[Translation]

Senator Carignan: I am going to start saying "listen" again. We examined the issue and we are satisfied. CSEC's activities are legal.

[English]

Senator Moore: So, are you saying that it is legal for CSEC to gather information on Canadians and to bank that information and hold it indefinitely?

[Translation]

Senator Carignan: All of the agency's activities are subject to an independent review by the commissioner. His reports indicate that CSEC's activities have been compliant for 16 years. I cannot comment on specific foreign data collection activities or capacities.

[English]

Senator Moore: You're not about to comment as to whether or not those activities are legal or illegal. I find that unbelievable —

An Hon. Senator: He's a lawyer.

Senator Moore: — as a person who's connected with the government and representing the government in this chamber. Surely, Mr. Leader, you would have something to say about such a fundamental question.

So I again ask you: If the law is that it's not proper, that it is indeed illegal for a Canadian agency to spy on, to collect data on Canadians, what do you have to say about that? How can you not say that it's indeed improper, especially in view of the fact that the commissioner himself has said that he can't find absolutely that this is not taking place and it's indeed improper?

[Translation]

Senator Carignan: The CSE Commissioner, former justice of the Court Martial Appeal Court of Canada, the Honourable Jean-Pierre Plouffe, is already ensuring independent oversight, which includes independent auditing to make sure that the agency's activities continue to be carried out in accordance with the law.

[English]

Senator Moore: The commissioner requires that CSEC respect the privacy of Canadians in all of its activities. I know that and everybody here knows that, but that doesn't appear to be what's happening. He's unable to establish that. Indeed the Privacy Commissioner has written to his office, urging the agency, in a September 20, 2013, letter, to be more transparent about the way it collects personal information. She also offered up her staff "to assist you as you continue to work on privacy-related issues."

Further to that, Mr. Leader, the British Columbia Civil Liberties Association is taking the agency to court over two main issues: one, the interception of the private communication of Canadians; and second, the sweeping collection of meta data information produced by Canadians in their everyday activities online and through phone conversations.

In light of these efforts, is it not time that parliamentarians begin an oversight of CSEC in order to protect the privacy and interests of Canadians?

Senator Mercer: Good idea!

[Translation]

Senator Carignan: We have a CSE Commissioner: former justice of the Court Martial Appeal Court of Canada, the Honourable Jean-Pierre Plouffe. I have complete confidence in his work. He is already ensuring independent oversight, which includes independent audits to make sure that CSEC's activities continue to be carried out in accordance with the law.

• (1440)

[English]

Senator Moore: Supplementary question. Nobody here is questioning the credentials of the commissioner. He's already said he can't do his job, and he's concerned about the non-compliance of the law by CSEC.

I quote again from his report, 2013:

I expect CSEC to conduct its activities in accordance with ministerial direction, following all requirements and limitations set out in a ministerial authorization or directive.

Can you tell us if he believes CSEC was following ministerial directive in the Brazilian mines and energy cyber-theft case?

[Translation]

Senator Carignan: The CSE Commissioner monitors the activities of the Communications Security Establishment. He has access to all of the documents related to the centre and its staff. For 16 years now, the commissioner's reports have indicated that CSEC activities continue to comply with legislation.

[English]

Senator Moore: It sounds, leader, like your answers are on "replay." I still don't have an answer to whether or not CSEC was following ministerial directive and is spying on the Brazilian department of mines and energy. Can you tell us about that?

[Translation]

Senator Carignan: We looked at that issue, and we are satisfied that CSEC's activities are legal. All of CSEC's activities are independently monitored by the CSE Commissioner, whose reports indicate that CSEC has, for the past 16 years, complied with the law while conducting its activities. Under the law, this organization is not authorized to target Canadians.

[English]

Senator Moore: Without also being on the replay agenda here, I repeat that the commissioner has said he can't confirm that the agency is indeed operating within the law. Surely that must be of concern to you, leader.

[Translation]

Senator Carignan: All of CSEC's activities are independently monitored by the CSE Commissioner, whose reports indicate that CSEC has, for the past 16 years, complied with the law while conducting its activities.

If this keeps up, it will be the easiest question period yet.

SQUARE FOOTAGE COMPARISON OF CANADIAN AND AMERICAN SECURITY FACILITIES

Hon. Pierrette Ringuette: Honourable senators, there is some incredible construction happening on Ogilvie Road. I am told that it will house both the Canadian Security Intelligence Service (CSIS) and the Communications Security Establishment Canada (CSEC).

Can the Honourable Leader of the Government in the Senate tell us how many square feet this building will be, how much it will cost and how it compares to the Hoover Building? After all, there are only 32 million of us in comparison to the American population.

I understand that you might not have the answers in your notes, but I would still like you to answer my questions.

Hon. Claude Carignan (Leader of the Government): On the number of square feet, the cost and what else?

Senator Ringuette: Also, how that compares to the Hoover Building in Washington.

Senator Carignan: I am not sure whether we will be able to compare, but I will certainly take note of your question and provide any legally available information to answer it.

[English]

STATUS OF WOMEN

BUDGET REDUCTIONS

Hon. Jane Cordy: Honourable senators, Canadian women still continue to earn almost 20 per cent less than men for performing the same work, yet this government has shuttered the Status of

Women offices across the country and cut budgets across the board. Just \$29.6 million is now allotted annually to address the challenges faced by Canadian women. To put this in perspective, this government spent \$28 million in planning and celebrating the War of 1812.

Some Hon. Senators: Shame!

Senator Cordy: So, \$29.6 million for the Status of Women and \$28 million to celebrate the War of 1812, which took place even before Confederation.

My question for the Leader of the Government in the Senate is this: Why has this government closed most of the Status of Women offices and reduced the national budget to \$29.6 million?

[Translation]

Hon. Claude Carignan (Leader of the Government): I would like to start by underlining our government's support for the status of women. We have increased funding for the women's program to record levels.

Since 2007, we have invested over \$46 million to improve the safety and economic prosperity of women, over \$21 million to promote women's leadership and democratic participation, and over \$62 million to fund more than 300 projects to end violence against women and girls.

Economic Action Plan 2013 extends our support to young women at the beginning of their careers in the labour market, including those in science, technology, engineering, mathematics, and skilled trades. We have a commendable record in terms of investing in the status of women.

[English]

Senator Cordy: I can't believe that you would stand up and say that you support the Status of Women when you have closed all these offices across the country. There's no office in Nova Scotia. There's an office in Moncton. There's one office in Moncton to deal with the four Atlantic provinces. That's not performance.

I don't believe, either, that the families of the missing and murdered Aboriginal women would say that you are supporting women.

I don't believe that the families who cannot afford child care for their children or the families who cannot find a licensed child care spot for their child or children would say that you are supporting the status of women and women's concerns in Canada.

Government officials have claimed that the \$29.6 million budget was reduced because—“other departments also fund women.” Can you tell me whether or not the government in fact collects information gathered by these other departments for their funding for women's issues?

[Translation]

Senator Carignan: I am taking note of your question and I will get back to you with a complete list of each of the measures taken by each department to support the status of women. As I was just telling you, these are significant measures that have involved hundreds of millions in funding since 2007.

THE SENATE

SENATE REFORM

Hon. Jean-Claude Rivest: This morning, Jim Flaherty, the Minister of Finance, stated that he was in favour of abolishing the Senate. Was Minister Flaherty expressing government policy? Does the Leader of the Government in the Senate share Mr. Flaherty's views?

Hon. Claude Carignan (Leader of the Government): Our position on Senate reform has not changed. We have a reference before the Supreme Court, which will consider it very soon, and we will wait for the Supreme Court's decision so we can establish the parameters that will guide us towards Senate reform.

Senator Rivest: Is Minister Flaherty aware of this reference to the Supreme Court?

[English]

Senator Mercer: We're not sure of that.

[Translation]

Senator Carignan: I assume so. He will be able to see the conditions for abolishing the Senate because that is one of the questions to be put before the Supreme Court. We expect that the Supreme Court will deal with the issue of what conditions are required for abolishing the Senate.

• (1450)

[English]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

DOCUMENTS TABLED

Leave having been given to revert to Tabling of Documents:

The Hon. the Speaker: Honourable senators, pursuant to the order adopted by the Senate on Friday, October 25, 2013, I have the honour to table, in both official languages, the transcripts of the meetings of the Standing Committee on Internal Economy, Budgets, and Administration held on August 12 and 13, 2013, relating to the committee's twenty-seventh report during the First Session of the Forty-first Parliament.

ORDERS OF THE DAY

THE SENATE

MOTION TO SUSPEND THE HONOURABLE SENATOR PAMELA WALLIN—MOTION IN AMENDMENT— DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Poirier:

That, notwithstanding any usual practice or provision of the Rules, in order to protect the dignity and reputation of the Senate and public trust and confidence in Parliament, the Senate order a suspension for the Honourable Senator Wallin for sufficient cause, considering her gross negligence in the management of her parliamentary resources, until such time as this order is rescinded pursuant to rule 5-5(i), and such suspension shall have the following conditions:

- (a) Senator Wallin, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional allowance or living allowance;
- (b) Senator Wallin's right to the use of Senate resources, including funds, goods, services, premises, moving and transportation, travel and telecommunication expenses, shall be suspended for the duration of the suspension; and
- (c) Senator Wallin shall not receive any other benefit from the Senate during the duration of the suspension;

That, notwithstanding the provisions of this suspension motion, the Senate confirm that the Standing Committee on Internal Economy, Budgets and Administration retains the authority, as it considers appropriate, to take any action pertaining to the management of Senator Wallin's office and personnel for the duration of the suspension;

And on the motion of the Honourable Senator Cowan, seconded by the Honourable Senator Fraser:

That this motion be referred to our Standing Committee on Rules, Procedures and the Rights of Parliament for consideration and report;

That Senator Wallin be invited to appear; and in light of the public interest in this matter, pursuant to rule 14-7(2), proceedings be televised;

And on the motion in amendment of the Honourable Senator Fraser, seconded by the Honourable Senator Munson:

That the motion be amended by replacing the words “Rules, Procedures and the Rights of Parliament” with the words “Internal Economy, Budgets and Administration”.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to Senator Cowan’s motion and Senator Fraser’s motion on sending Senator Carignan’s three motions on suspension to committee.

Before I speak on these motions, I want to thank Senator Furey, who has, for a long time, shepherded us through a very tough period and has worked tirelessly on our behalf.

Some Hon. Senators: Hear, hear.

Senator Jaffer: This is in addition to the hard work also put in by Senators Comeau, Tkachuk and Stewart Olsen. I also want to thank all the members of the Internal Economy Committee for their work on behalf of us. I know you will all agree with me that they have done their best with very few precedents.

Lastly, I would also like to thank the Clerk of the Senate, Gary O’Brien, and Senate administration for their hard work on our behalf. These are probably the most trying times in the Senate, and all of them, including Senators Cowan, Carignan and LeBreton, have done their best on our behalf, and I want to thank them.

Honourable senators, let us examine what we have done here in the Senate. We delegated the examination of Senators Duffy, Brazeau and Wallin’s claims to the Internal Economy Committee. After deliberations, they asked, on our behalf, for the three senators to pay the Senate sums of money and they referred this matter to the RCMP. This, as we all know, is a very serious matter. The RCMP is taking this investigation very seriously.

On our instructions, Internal Economy meted out the penalty for the expenses claimed. Now some of us in this chamber want to mete out further penalties. What worries me very much is that these three senators must have been under the impression that Internal Economy was acting on our behalf, and they cooperated.

Now, in the absence of further violations or trigger events, such as charges laid by the RCMP, some of our colleagues, on their own volition, want to suspend the three senators without pay. To me, that is like a judge who, after sentencing a person with a certain penalty, later decides to impose another, harsher penalty, even though the situation has not changed since he sentenced that person.

In law, one would easily be able to argue that this matter cannot be heard because of *res judicata* or, in other words, because the matter has already been settled by judgment.

Honourable senators, I am very troubled that we are revisiting this issue on a civil basis when we have already referred this matter to the RCMP for a criminal investigation. How can we justify this?

Honourable senators, Senator Carignan is alleging gross negligence. In *Ryan v. Victoria (City)* 1999, the Supreme Court of Canada stated:

Conduct is negligent if it creates an objectively unreasonable risk of harm. To avoid liability, a person must exercise the standard of care that would be expected of an... prudent person in the same circumstances.

... The measure of what is reasonable depends on the facts of each case, including the likelihood of a known or foreseeable harm, and the burden or cost which would be incurred to prevent the injury.

Gross negligence, in contrast, is an action or an omission in reckless disregard of the consequences to the safety or property of another.

All weekend I’ve been studying the law books to see how we can call the conduct of the three senators “negligent.” There are other torts that this conduct could be called, but, from my studies, I have difficulty calling it negligence. Nevertheless, for now, I will accept that the use of this term is proper.

Honourable senators, if someone came to my law office stating that they are a defendant in a civil case where it is alleged that they hurt someone as a result of speeding, I would have a lot of questions for them. An allegation of speeding is not enough proof. My questions would be: Who says you were speeding? How do they know that? What is their expertise? What were the road conditions? Were there any other cars? How fast was the person who was hurt driving? I would ask an endless number of questions before I would let an allegation against my client on speeding stand.

Then we would go to court and the judge would decide whether my client was speeding. To arrive at that decision, the parties would testify. They would then be cross-examined, or in other words their statements would be tested. From their demeanour, answers and the circumstantial evidence, the judge rules on the credibility of the person alleging the facts. He would judge whether the facts are proven or not based on a balance of probabilities. Then he would arrive at a decision. That, honourable senators, is due process.

On one hand, we have Senator Carignan making allegations. On the other hand, we have Senators Brazeau, Duffy and Wallin making completely different allegations. Without testing these claims, how are we supposed to arrive at a decision? This, honourable senators, is not the due process that we, as an institution, are supposed to protect.

We are supposed to be a chamber that protects due process, rule of law and the Charter. If we pass these three motions before us, we will be doing irreparable damage to our institution. I shudder to think what will be the reaction of the Minister of Justice or Justice officials when they appear at the Legal and Constitutional Committee and I ask them my question: Is this bill Charter-proof?

How can I ask that question when we are clearly disregarding the Charter with these motions to suspend the three senators? Where would your/my/our credibility be?

Honourable senators, we will be doing irreparable damage to our institution if we vote in favour of these three motions. We will never recover from this error by supporting the three suspensions.

• (1500)

Our institution has taken a great beating. Our reputation has suffered, but I know, because I am a proud senator, each of us is proud of the work we are doing on behalf of Canadians.

When I walk in the East Side of Vancouver to encourage a young girl on the street to seek help and run away from her pimp, and when I succeed in convincing her, I do it as a senator, and I am proud of my work.

When I go to the Red Light District to work with International Justice Mission Canada to rescue trafficked children, I do it as a senator, and I am proud of my work.

When I work with the Human Rights Committee and produce a youth and parent guide on cyberbullying, I do it as a senator, and I am proud of my work, as do all of you, senators, who are proud of your work.

We are proud of what we do, and I believe we now have to work tirelessly to restore our institution's reputation so that this institution may continue to be proud of its efforts to change the lives of Canadians and others.

Honourable senators, your leader, Senator Carignan, and my leader, Senator Cowan, have both stated that this is a free vote. Over the weekend, Senator Carignan acknowledged that there are other options that this chamber may consider. So in the greatest and most free country in the world, why would we not give time for due process? What are we afraid of? We can stand for what is right with no consequences to ourselves. Today we may vote using our conscience.

The Speaker of the Senate, a very wise and respected individual, last week referenced the Latin phrase, "*Nihil ordinatum est quod praecipitur et properat*," which translates to: "Nothing that rushes headlong and is hurried is well ordered." We should take his advice. We should take the time to extend due process to Senators Duffy, Brazeau and Wallin.

Honourable senators, I want to share with you something that's very much ingrained in my memory. As you know, I was born in Uganda. We enjoyed independence in 1962. The feeling of freedom from a colonial regime was exhilarating for all Canadians. Then that freedom was snatched away from us when the army and President Idi Amin became all powerful.

To this day, I can remember my mother begging my father, who was a member of Parliament, to stop challenging the president. My father risked death by speaking out. My father would respond, "I want my children to learn to stand up for what is right."

One day, a brave army official warned my dad that Idi Amin's goons would be arriving shortly at our house. My dad fled. To this day, we shudder to think how my father would have been tortured and killed. One brave soldier took a risk and saved my father's life.

At a later time, my husband, Nuralla, did not escape from the clutches of the army, and they did take him. The circumstances were horrific, but it is enough to say that I am not a widow today because of one brave police captain who stood up to the army and insisted that my husband be taken to the police station.

Both of these extremely brave men, the army official and the police captain, could have lost their lives, yet they still stood up for what was right. They knew that some principles are worth risking everything for.

In our great and free country that we proudly call Canada, we have been given an opportunity by our leadership to vote as per our conscience. Why would we not stand up for the principles of due process, rule of law and the Charter of Rights and Freedoms? If we do not stand for due process, rule of law and the Charter of Rights and Freedoms, who will? If I do not stand up for due process, rule of law and the Charter of Rights and Freedoms, who will? If this chamber does not stand up for due process, rule of law and the Charter of Rights and Freedoms, who will?

I would like to bring your attention back to Her Majesty's Writ of Summons which we each received when we first became senators. It states:

KNOW YOU, that as well for the especial trust and confidence We have manifested in you, as for the purpose of obtaining your advice and assistance in all weighty and arduous affairs which may the State and Defence of Canada concern, We have thought fit to summon you to the Senate of Canada.

Honourable senators, I urge you to support Senator Cowan's and Senator Fraser's motion and give Senators Duffy, Brazeau and Wallin due process, a value we all cherish.

Hon. Michael Duffy: I don't know how one could top the wisdom of Senator Jaffer in her remarks, which go to the core of what it is to be Canadian.

I come here again today, against my doctor's orders, directly from the Heart Institute. I have to give them a plug. If you have any spare cash, they're always happy to take donations. Maybe that's out of order. Anyway, they are wonderful, caring people over there who advised me, if possible, to stay away from these proceedings because the stress from the proceedings is toxic to my heart. But despite their warnings, I have no choice but to appear considering the avalanche of untruths and character assassination with which I've been unfairly and viciously attacked by colleagues who should know better.

I listened with a mixture of sadness and incredulity to what has been said over the past few days. I thought the government leader, Senator Carignan, would have been more careful in his accusations, especially considering the recent profile of him in *The Globe and Mail* and the defamatory things being said about him in his home province of Quebec. He deserves the presumption of innocence in his activities on the elected playing field, and so do we three. Sadly, that isn't the case.

Hansard reports that on or about 1630 on October 23, Senator Carignan said:

... the *Rules of the Senate* were violated repeatedly, with negligence and recklessness....

What rules? When and how? Does he not know that the PMO, speaking explicitly through Nigel Wright and after checking into my expense claims, wrote to me on December 4, 2012:

Mike I am told you have complied with all of the applicable rules and there would be several senators with similar arrangements.

Was he referring to Senator Stewart Olsen, who took two years to move from her home in Ottawa to her home in New Brunswick?

An Hon. Senator: Shame.

Senator Duffy: This was December 4, 2012, colleagues, after I had been four full years as a senator, and this is in direct reference to all of the living-allowance claims that Senator Carignan had the nerve to say I broke the rules about, recklessly.

And Nigel Wright wasn't alone. On December 3, 2012, the day before Mr. Wright sent me that email, Senator David Tkachuk, the chair of the board of internal economy at that time, confirmed to the media that my expenses were entirely within the rules. He stated there was no reason for me not to claim the housing allowance in Ottawa.

An Hon. Senator: Uh-oh.

Senator Duffy: Senator Carignan's wild, unsubstantiated charge reminds me of that defamatory accusation made on May 28 at the infamous televised meeting of the board of internal economy. That rare, televised meeting of the board was scheduled after I had the temerity to tell the media on May 23 that they could relax, that I wanted all of the facts to come out in the proper place, in the proper time, with all of the players under oath.

Well, guess what? The PMO didn't like that. "Duffy wants to go public. We'll fix him."

So they scheduled a televised meeting of the board of internal economy, knowing my lawyer was away, and then gave me nine-minutes' notice that they had new evidence against me.

• (1510)

Well, I stayed away from the ambush and watched TV to learn what they were talking about. Without ever interviewing me and contrary to the findings of the independent auditor Deloitte, they concluded that I had engaged in a pattern—a pattern—of filing false expenses, and they called in the RCMP.

When I finally received a DVD containing the so-called evidence, what did I discover? They had sent the Mounties every expense claim I ever filed in the Senate, from December 29, 2008, to August 12, 2013. That totalled 215 claims.

Senate Finance decreased 47 claims, saying I had overcharged a meal allowance here, 13 bucks; a mileage adjustment there, a few dollars. But they also increased 28 claims saying I had not charged the Senate enough.

When you do the math, 215 claims over four and a half years, I overcharged the Senate, they said—and we didn't challenge their math—\$437.35, which, on 215 claims, works out to \$2.03 a claim.

Senate Finance corrected these small errors, this pattern of filing false claims, \$2.03 per claim.

This is the type of minor expense mistake routinely made in all Senate offices and you know, with the complexity of the Senate expense form, that that is true. That also explains why the Senate administration has since dumped those forms and brought in a new computerized accounting system to make it clearer and more understandable for everyone.

Colleagues, your staff sends in the form and Senate Finance makes corrections and adjustments. Not a penny remains owing from these minor adjustments, which were all duly corrected and paid. Let's get it straight.

They, the Internal Economy Committee, on live television, accused me of submitting fake expense claims, a grand total of \$2.03 a claim. And for this they defamed a sitting senator on national television?

I asked for a copy of all of the correspondence from the Senate administration over the time that I have been in this august chamber, four and a half years. I wanted every communication between me, my office and the Senate administration about anything about which they were concerned.

Did they ever, ever once write and ask me, "What's going on? We have some concerns." Never. Not one word.

If this monstrous defamation had been made outside, I would have sued, but it was made in committee where senators are protected by parliamentary privilege. This was back on May 28.

The Internal Economy Committee actually met twice on that day. They met in secret in the morning. Were the 15 members of the committee told there that they were about to defame a colleague on national TV over errors amounting to \$2.03 a claim?

I can't believe my colleagues on the committee would have participated in this hideous distortion of the truth had they known the alleged crime was the price of a Tim's: two bucks—\$2.03. Small, inexpensive, insignificant claims mistakes, all immediately corrected.

Well, I can only conclude that this was a set-up planned by the Senate leadership, under the direction of the PMO, and designed to destroy my credibility with Canadians if and when I ever went public about the real story behind the \$90,000.

Given the enormity of the May 28 allegations, should any senator believe anything they are being told by the leadership today about the actions of Senators Wallin and Brazeau and me? What lies are they whispering this afternoon in caucus about "if you only knew what we knew about these three terrible people"?

I know one thing: You can't trust this leadership to tell the truth, the whole truth, and nothing but the truth.

Speaking of leadership, that was quite a performance last week by Senator LeBreton. She smugly dismissed my revelations of conspiracy, bribery, threats and extortion. It was a whopper.

Well, it is a whopper all right. You wait until Canadians see the email trail in the hands of my lawyers and, I hope, in the hands of the RCMP.

Those emails among the PMO, their lawyers—including Ben Perrin, who is very actively involved in vetting resolutions for the party's national convention this weekend—lawyers for the PMO; Ben Perrin; the Conservative Party's lawyer, Arthur Hamilton, he was involved; and my lawyer—when you look at all those emails in that chain, it proves this was a set-up from the start and that I am innocent.

The PM knew I wasn't guilty. Nigel Wright knew I wasn't guilty; he said so in that email. And the Senate leadership knew I wasn't guilty. Just take a look at the documentary evidence.

So I was back home in P.E.I., after the Prime Minister had decided we were going to do this nefarious scheme, and Nigel was working the phones, coaxing me to go along with this terrible plan. He even said he would pay the \$90,000. All I had to do was to go along and do as I was told.

Not only that, but when I insisted on written guarantees that repaying money I didn't owe would not be seen by the Senate as a guilty plea, Nigel Wright arranged to have my legal fees paid. That is right. One cheque from Nigel Wright? No, ladies and gentlemen: there were two cheques, at least two cheques. The PMO, listen to this, had the Conservative Party's lawyer, Arthur Hamilton, pay my legal fees. He paid for my lawyer—Arthur Hamilton—with a cheque for \$13,560. That is right, senators: not one payment—not one payment—but two.

Contrary to the Prime Minister's assertion on CFRB last week that he ordered repayment because Senate expense rules were, in his words, "beyond the shadow of a doubt broken," he had my legal bills fully paid. Why would he do that? He would never do it, if he believed my expense claims were improper.

He did this because, as I have said from the start, this was all part of his strategy, negotiated by his lawyers and the Conservative Party's lawyers, to make a political situation embarrassing to his base go away.

He took their money—I suspect; I can't prove it yet. I suspect he took their money, the base's money, to pay off a lawyer to make this all go away. The cheques tell who is telling the truth and who is not.

Mike Duffy, the man they now claim is a cheat, had more than \$13,000 in legal expenses paid by Arthur Hamilton, the Conservative Party's lawyer from Cassels Brock, this on top of the \$90,000 which they say came from Nigel Wright. I have never seen a cheque from Nigel Wright, but I do have the cheque stub and the transmittal letter from Arthur Hamilton, the Conservative Party's lawyer. When I finish my remarks today, with the Senate's permission, I would like to table it and copies of the emails and other memoranda that I will refer to in the next few minutes.

What more evidence do honourable senators need than the email train among the highest levels in the PMO detailing the contract negotiations? The links to the \$90,000 payment and now

the further \$13,000 payment from the party lawyer to my lawyers shows that this monstrous fraud was the PMO's creation from start to finish.

When you have an opportunity to read these emails, you will see the back and forth as the PMO lawyers checked with their principal on the language which would be used to direct the future actions of Senator LeBreton and others in the Conservative Party leadership.

As a senator, it saddens me to see that at one point, when Senator LeBreton actually tried to act independently, Nigel Wright wrote me a letter saying he was displeased by this freelancing by Senator LeBreton and her colleagues. His tone was, who do they think they are? He ordered the Senate leadership and the Conservatives on the steering committee of the board of internal economy to fall into line and stop unilateral action. It's all here in writing.

• (1520)

Are we independent senators or PMO puppets? When you read this documentation, colleagues, you will see who was running this brutal campaign to destroy support among Canadians for a chamber of sober second thought, a chamber that would act as a break on the unfettered power of the people across the way.

Senator LeBreton says she can't find that two-page legal memo written on her behalf by her constitutional adviser.

Well, the document is dated January 6, 2009, and was sent to Senator Wallin and me before we were sworn in. In this memo, Senator LeBreton has her constitutional expert explain to us the Senate's residency policy. Why did she do that? Because we wanted to make sure we followed the rules. So they sent us this two-page memo, and it says the Senate itself determines what constitutes residency, free entirely from definitions set out by other government departments or statutes. That memo further explains that residency does not depend in any way on the number of days spent in one's home province or at a given residence.

We followed the advice in this memo, as did my staff when they filled in my housing allowances and expense forms, under the guidance and supervision of the experts at Senate Finance.

I would like to table that as well.

The Hon. the Speaker pro tempore: I regret to inform you that your 15 minutes have expired. Are you prepared to ask the chamber for more time?

Is more time granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Please proceed.

Senator Duffy: Would honourable senators agree to another five minutes?

An Hon. Senator: Half an hour.

Senator Duffy: We have more to come. We have more to come.

The memo further explains that residency does not depend in any way on the number of days spent in one's home province or at a given residence. I followed the advice in this memo, as did my staff when they filled in my housing allowances and expense forms, under the guidance and supervision of the experts at Senate Finance. I would like to table that document as well.

So to recap: I followed the rules set out by Senator LeBreton's expert. Four years in, on December 3, Senator Tkachuk, a gentleman, then chair of the board of internal economy, confirmed to the media that I had followed the rules and was eligible for these allowances. The next day, on December 4, Nigel Wright at the PMO checked and reported my claims were within the rules; and, finally, Deloitte confirmed that, except for a clerical error on per diems during my vacation, I had not broken the rules.

But there is more.

Senator LeBreton tried to brush off my February 13 meeting with the Prime Minister and Nigel Wright. How can she speak to this? She wasn't there. She was never present during the meeting. As I told you, colleagues, last Wednesday, it was the Prime Minister, Nigel Wright and me, just the three of us.

And this wasn't a casual encounter, as Senator LeBreton suggests. The meeting was set up on February 11 when I met with Nigel Wright in the Langevin Block. That's when I first heard about and immediately voiced my objections to this fake pay-back scheme. Last week I told senators that at that meeting on February 13, down the hall, the Prime Minister agreed I had not broken the rules but insisted I pay the money back, money I didn't owe, because the Senate's rules are, in his words, "inexplicable to our base."

It was never about ethics. It was always all about politics, which explains why Arthur Hamilton was busy cutting cheques.

Have you heard enough?

An Hon. Senator: No.

Senator Duffy: Wait. There is even more.

Senator LeBreton, some Conservative MPs and some PMO spinners have been attacking me for saying I had gotten a loan at the RBC. Some people, colleagues, just have no shame. That line about RBC was part of a script written for me and emailed to me by the PMO.

On February 21, after all of the threats and intimidation, I reluctantly agreed to go along with this dirty scheme. The PMO spin machine was in high gear. Cellphone and PMO telephone records from February will show there were numerous phone calls and emails to me as the PMO developed their version of events and rehearsed with me right up until minutes before I went on television the lines I would use with the media.

Early on, in those discussions with the PMO, the PMO experts predicted the media would ask, "Where did you get the \$90,000?" When they heard that I had been using a line of credit to renovate

my home in Cavendish, they jumped right on it. It was suggested I go to the RBC, borrow the cash to pay off that line of credit, and then, when the media asked, "Where did you get the money to pay the \$90,000?", the PMO told me to say, "My wife and I took out a loan at the Royal Bank."

Well, that's technically correct. We took out a loan, but that loan wasn't to repay money, the \$90,000 that the PMO agreed I didn't owe. That line was written by the PMO to deceive Canadians as to the real source of the \$90,000.

The millions of Canadians who voted for Prime Minister Harper and the thousands of Tories gathering in Calgary this week would be shocked to see how some of these people, some of these Tories, operate. They have no moral compass. Oh, they talk a great game about integrity, but, in my experience, they demonstrate every day that they do not understand the meaning of the phrase "the truth, the whole truth and nothing but the truth."

How sad it is to see this attack on this important branch of our parliamentary system by people who are supposed to know something about the Senate's role in our democracy.

So why am I, a senator they agreed had followed the rules and who had foolishly played along with their nefarious plan, why am I being subjected to this unprecedented and arbitrary process of being suspended from the Senate? In the private sector, an employee can sue for wrongful dismissal, but not here in the Senate. The Senate, we are told, is above the law.

Last week, Senator Carignan said the Senate is a rights-free zone. I couldn't believe it. He actually said the Charter of Rights and Freedoms, the bedrock of our Constitution, does not apply in the Senate. Talk about special status.

Do Canadians really think senators should not be bound by the Charter of Rights? Do they want their democracy run without respect for the rule of law and due process? This assault on our rights undermines Canadians' respect for their Parliament, and if it's not stopped it will set a very dangerous precedent.

As Conservatives, we don't embrace changes in our system of government easily. We check it carefully to make sure it's absolutely the right kind of change, not just expedient change.

We remember and respect the Magna Carta that King John signed almost 800 years ago; the fundamental justice set out in the Diefenbaker Bill of Rights, more than half a century ago. So today, I ask you to stand up for fundamental justice and do not let this unjust motion pass. Tell Senator Carignan that he hasn't proven his case or any case. Tell him this is a matter for the justice system and ensure that, with your vote, justice prevails.

The government could end this by simply withdrawing these dangerous and anti-democratic motions. Declare victory and go off to Calgary to celebrate the government's many substantial achievements for Canadians. Let due process proceed.

This is a case for the history books. Nigel Wright, Senator Tkachuk and Deloitte all found me not guilty. What will history say of you, honourable senators, after this vote?

Thank you, colleagues.

I would like to table documents here, with leave of the Senate.

The Hon. the Speaker: Is leave granted, honourable senators, for the tabling of documents?

Hon. Senators: Agreed.

The Hon. the Speaker: So ordered.

I'm afraid the senator's time has been exhausted.

• (1530)

Hon. Grant Mitchell: Thank you, Mr. Speaker. Colleagues, I know that over the years that I have been in this Senate, I have spoken many times, and probably without fail almost everything I ever said would be disputed by somebody in this chamber, but what I'm about to say right now will be indisputable: Whatever I say after that speech will be absolutely anti-climatic.

Hon. Senators: Agreed.

Senator Mitchell: That was a very powerful statement and really underlines the central theme of what much of this debate has been, and that is the question of due process versus a rush to judgment. I want to say that I think we all feel a tremendous weight from the dichotomy and the tension between these two initiatives. On the one side is this sense to overcome an anger that many Canadians and some of us feel about what has gone on with the alleged behaviour of four senators, and, on the other side, we have the question of due process and the Charter of Rights and all of those implications. I think that weighs heavily on all of us, and I think it brings to bear a sense of weariness and, in some senses, even an emotional exhaustion. I will tell a story a little later that reflects that.

I do believe that at the basis of all of this debate on all sides and for everyone involved, we want to protect, restore, if that's the case, and enhance the reputation of the Senate. Senator Jaffer just listed some of the tremendous work that this Senate does, and we all know that to be the case. We have not been very good about expressing that or communicating that, but, at the base of this debate, no matter which side people are lining up on, we somehow want to fix whatever damage has been done because of this issue. But a fundamental shift in the damage or in the assessment of Canadians about this Senate occurred last Tuesday when the government side moved its motion. Up until that point, what Canadians were seeing and what they were basing their current judgments about the Senate upon was the behaviour of four individual senators, four people. As of Tuesday, with that motion, what became the stake was the behaviour of this institution.

It's one thing for the Senate to be evaluated on the basis of the behaviour of four individuals. Six months from now or a year from now, when Canadians wake up and begin to filter this through, that will be a very different impression than the impression they will be left with about how the institution behaved in this critical time. There are the two fundamental issues about how this institution behaves. On the one hand, it is the behaviour of four individuals, as I say, and do we want to punish? Do we want to punish after a process? The second question is the proper process, and that, it seems to me, is exactly where we are at

this time. The stakes are much, much higher, in fact, as ironical as that might sound, after last Tuesday because Canadians are no longer simply evaluating individual behaviour; they are evaluating the very behaviour of this institution.

This institution has been here for 146 years, and it has made a powerful contribution to the elevation of this country and to the elevation of the values that define us as Canadians: respect for the process of law, respect for human rights, and so on. Canadians want us to do the right thing, and I will come back to my earlier point about this emotional exhaustion and what occurred on Thursday when I was at the airport, getting on the plane. We have all been there many times. I walked up to the door, the last step you take before the guard tells you which line to go into to pass security. I was standing there, and it has never happened to me before that the guard has ever said anything other than simply go to line 2 or line 3 or 4, but this young lady said to me, "You look like you have had one really tough day." It struck me as odd that she would say that, but of course I guess I did because I had been through three days of this debate, as we all had. I debated what I'd say to her, and I said, "Yes, I have. I have had three very tough days. I'm a senator, I'm a Liberal, we're in this debate, and I'm very concerned about due process of law and what's at stake right now." The person behind me, a man of about 50 years old, tapped me on the shoulder and said, "You keep this up. You don't give up. You have to do the right thing, and the right thing is honouring the process of law and doing what is right in that respect."

Then I got on the plane, and I sat down, and there was a woman beside me whom I had never seen in my life, and she looked at me and said, "You look like you have had one awful day." And now I started to get a little bit sensitive, but again I said, "I'm a senator, I'm a Liberal, and I'm very concerned about the due process of law being that's reflected in this debate and that's at stake in what this institution, this Senate that we love so much, does right now." She said, "I've been an aid worker all my life." She had returned from Bangladesh two weeks ago. She said, "I have followed this debate over the last number of days. I have spent my life and our aid work is focused on working with countries and telling them, helping them and educating them on how to do the right thing in cases exactly like this. You keep going. Don't give up. Do the right thing. The process of law is what is at stake here."

When I consider the issue of process of law or due process, I think there are two fundamental matters here. The first one is this: Have these accused three senators, these colleagues of ours now, actually been given some fundamental rights, the kinds of rights that Senator Segal was so appropriate in pointing out that apparently the Prime Minister earlier today was trying to uphold in his concern with Sri Lanka? So yes, they have had a chance to talk now, but they have not had a chance to actually ask questions in an organized fashion of their accusers. They haven't had a chance to have their counsel beside them cross-examine their accusers and cross-examine them. They haven't had a chance to have their punishment in any way appropriately reflected upon in the sense of having been established on the basis of precedent or consideration. They have had none of that, and we can't offer that kind of process in this kind of institution, in this kind of forum. It simply doesn't work.

Every day, day after day now, we see more and more being revealed. There was a microcosm of what I'm talking about the other day. It struck me when Senator Wallin, Senator Duffy and

Senator Brazeau had finished speaking, and Senator LeBreton and others got up to answer that. As honourable senators, we would accept that each of these people believed that what they said was true, but they were saying, the three and Senator LeBreton and Senator Tkachuk, quite different things. That's why we have a court process that allows for cross-examination, to filter through stories, presentations, versions of past events, strongly held as the truth by competing individuals that sometimes bear no relationship one to the other. That's why you need to have counsel that cross-examines. They don't get the chance to have that here.

I want to emphasize the point that Senator Duffy made: This is their final chance. A reductionist argument has been used that in the private sector they would just be fired. I read an interesting comment by somebody who said that in the private sector, if your bosses were telling you to do it, you wouldn't just be fired. That's an issue that we need to review and cross-examine and dig down and unpack and find out what, in fact, is true in that regard. But what's fundamentally important in the difference between this process and the private sector process, and Senator Duffy made this point, is that you get a chance to appeal being fired in the private sector because you can go to court and you can take your case to court for wrongful dismissal. There is no appeal to this case.

The second issue of process that I find deeply disturbing that's being missed, of course, is that there is no precedent for the penalty that we're considering. In fact, it has been said before, but I will emphasize it: To make it doubly difficult is the fact that these three people have maybe done some things the same, but what they have been accused of also are different things, and in fact the impact financially is not of no importance in these kinds of considerations — \$45,000 or \$48,000, \$90,000, \$140,000. That's quite a difference, and yet every one of them in this motion would be treated exactly the same way.

• (1540)

I have one other point about the process that I want to mention. When asked if we have the basis in fact, Senator Comeau — whom I will say has provided good leadership for that committee on a tough job over the summer, along with Senator Furey — stood up and said, “Well, just read the Deloitte report. They're the facts.” Can you imagine, in a court of law in Canada, anybody being sentenced to something as severe as these sentences based on an auditor report where the auditors were never cross-examined and the report could not be questioned in any kind of structured way by counsel? Can you imagine that that would happen in a court of law in Canada? If it wouldn't happen there, how is it that we would base this magnitude of decision about the impact of this on these people's lives?

I don't mean to diminish that, but I would argue that even more important is the question of how this Senate conducts itself at a much higher level with respect to Charter of Rights issues and human rights issues and due process of the law. Do we want to reduce that to a report or reports by auditors who have never been cross-examined?

Senator Segal: Shame.

Senator Mitchell: I know that people in this debate and my colleagues are not driven by politics overwhelmingly perhaps in this particular question, on this particular debate, but to taint it further, the question of politics and political pressure is definitely a relevant question and it cannot be denied.

I don't think this government can do much competently, but one thing that really struck me is that if this government used to do one thing competently it was message. Last week it had two messages that it wanted to get out. It wanted to get out its Throne Speech message and it wanted to get out its free trade message.

Ask yourself why the government and political actors, who have been so focused and successful at messaging and spinning, would bring in a motion to suspend these three senators, knowing that it would absolutely overwhelm any other kind of message that they would ever want to communicate in the midst of it?

They sacrificed the “let's change the channel” Throne Speech message, and they sacrificed their CETA free trade message. That must mean that this is extremely important to them politically. It is not a coincidence, it has been said and I will underline it again, that they want to get this off the table before they have to face their base at their convention.

This issue has been raised independently to me by Albertans, without being provoked by me to do it, on a number of occasions, simply saying that this is political. If we want to be concerned about how people are going to evaluate this Senate and if we ever want to gain some reprieve in their appreciation of the Senate, it won't simply be by punishing people almost arbitrarily. It will be by how we stand up to the bigger questions. I believe that bigger question has been tainted by these suggestions of politics.

I want to close by also saying if we think this is going to fix the problem of the Senate and people's appreciation of it, I think we're dead wrong. There's much more that we need to do. This is not a panacea. In fact, this won't stop the criticism and it won't allow us to re-establish what a remarkable, wonderful, beautiful institution this is and the great contribution it has made to this country over 146 remarkable years. We need to do much more and we need to work together on both sides of this house to do much more. At its base, if we are going to have any credibility at all, we absolutely have to conform to the higher ideals, the process of law, the Charter and the human rights issues that this Senate has stood for, was created to stand for and has stood for so well for so long in this country.

The Hon. the Speaker: Questions and comments?

Hon. A. Raynell Andreychuk: Will Senator Mitchell take a question?

Senator Mitchell: Yes.

Senator Andreychuk: Senator Mitchell, you started out by using the term “sentencing” but really it is the disciplinary measures portion. I respected that you were going to talk about those issues, but then you went on to say how due process wasn't allowed and how the Charter of Rights wasn't abided by.

Are you asking for more time, Senator Mitchell?

Senator Mitchell: Yes.

No, I agree.

Senator Andreychuk: As we well know, this is a very special institution; you said so. Because of that we have parliamentary privilege. We have a certain set of rules — conventions — that we abide by.

Now, we don't act alone here; we often act through committees. The Internal Economy Committee was tasked with the responsibility of the investigations, of the audits, of all of the process, and they came to a finding. Something concerns me. Are you saying they didn't do their job appropriately and that it was not a fair hearing? I hear you say you want to appeal that whole process. Are you saying that all of those members on that committee did not provide a fair hearing according to the rights and responsibilities within this chamber?

Senator Mitchell: No, I'm not saying that at all. I'm saying they're two quite different situations. The magnitude is geometrically greater now with what is at stake in this decision because we are determining what will happen to their lives. This is a punishment process. To this point they've just paid back, but the stakes are much higher. This is a punishment process that can literally ruin their lives.

Also, whether we like it or not, the motion has raised and elevated the question of due process. When you look at it in the context of the issue we're discussing right now, which is the penalty, the due process question is clear.

You said that we have rules and we want them to govern us. It's interesting, first, if you read the motion, it says "...notwithstanding any usual practice or provision of the Rules." That's new. That's interesting.

Second, you said — and I know Senator Nolin made this case — we are the masters of our own devices, but it's very interesting that with this new motion on the Order Paper by the deputy leader, if it is ever moved — I would assume there's an intention to that — all of a sudden this is no longer simply a Senate government side motion but a government motion. Well, if we're the masters of our own house and we're the people who have to make these rulings, why would we want to turn this into a government motion, which is exactly what that will do?

More than that, why does there seem to be some communication — I'm sure there is — with the Prime Minister, who has made this determination? He hasn't sat through any of this debate, but he has ruled. He's finally come up with the judge, jury and conviction. He's ruled. He hasn't sat through any of this debate. He hasn't heard anything of what it is we're talking about.

When you say that this is a special place, you are absolutely right it is a special place. I and my colleagues and some of the people on that side I'm sure who are arguing this case — I'm not saying others — want to keep it a special place.

Hon. George Baker: Would the honourable senator agree with Chapter 3 of the text, the *Canadian Charter of Rights and Freedoms, Second Edition*, edited by Beaudoin, in which it says: "Does it follow that inquiries or disciplinary proceedings undertaken by the House of Commons or the Senate, for example, are not subject to the Charter? In my view it extends to every action taken by the Senate by virtue of their traditional rights and privileges, which affects individual rights. Thus it would apply, for example, to the penal sanctions which may be imposed on a person found guilty of contempt of Parliament. The Charter applies to the Parliament in the exercise of all of its powers." Would the honourable senator agree with that opinion?

Senator Mitchell: Yes.

• (1550)

Hon. Pierre Claude Nolin: Senator Mitchell, you cannot say yes to that. It's a trap, a huge trap, because Senator Baker knows very well that the Supreme Court of Canada ruled on that in 1993. And the answer to his question is no. Whatever inherent privilege that we have that dates back 800 years, that we've inherited from the British parliamentary system — not written in the Constitution, inherent to the authority of this Parliament — is not subject to the Charter of Rights, yes or no?

Senator Mitchell: I believe deeply and fundamentally in the Charter of Rights. I'm not a lawyer. I want to see it expressed here, and I believe Canadians want to see it expressed here as well. And if it isn't, as I say, I think we've seriously damaged what it is that this institution is here to stand for.

But I will also say, in the interest of prudence, why is it that we have to make this decision right now? What's the hurry? Why would we want to make a mistake? Why wouldn't we want to wait until we structure a committee and do more detailed research? Why wouldn't we perhaps even wait until the RCMP makes its determination? Wouldn't it make a difference in how we would think if they were charged or if they weren't charged? Would we not get more and better information?

I have huge respect for Senator Nolin, but I don't see, when it is so easy for us to extend proper due process — where they could actually cross-examine and question their accusers — why wouldn't we do that? What kind of institution are we? What kind of place, what kind of people, what kind of Canada would it reflect that we wouldn't do that? I just can't understand it. It's so easy to do. Why wouldn't we do the right thing? It's actually easy to do.

Senator Nolin: Are you asking for more time?

The Hon. the Speaker: You are out of time.

Hon. Hugh Segal: I was going to ask a question. I guess we're out of time for that?

The Hon. the Speaker: Yes, but I'm in the hands of the house.

Some Hon. Senators: Agreed.

Senator Cools: All the time you need!

Senator Nolin: Senator Mitchell, I'll give you an important sentence from the *New Brunswick Broadcasting Co.* decision of 1993, and the majority speaking through now Chief Justice McLachlin:

[Translation]

In summary, it seems clear that, from an historical perspective, Canadian legislative bodies possess such inherent privileges as may be necessary to their proper functioning. These privileges are part of the fundamental law of our land, and hence are constitutional. The courts may determine if the privilege claimed is necessary to the capacity of the legislature to function, but have no power to review the rightness or wrongness of a particular decision made pursuant to the privilege.

[English]

That is the essence of the *New Brunswick Broadcasting Co.* decision. When former Senator Beaudoin is giving his opinion, he's basically saying yes, I know Justice McLachlin said that, but she is wrong. That's basically what Senator Beaudoin is saying in his book. We had an argument with him on that, but the decision of the Supreme Court is the law of the land now.

What I just read to you says, look, it's up to us to define our rules, to, as she said, *bien fonctionner*, and that's it. We may not like that, but I think you will agree with me that's the law of the land.

Senator Mitchell: Well, Senator Beaudoin was a Conservative, interestingly enough.

But I think, Senator Nolin, you're making my point. My position has just been represented by my counsel, Senator Baker, and the government's counsel, Senator Nolin, has made another case. Perhaps they're equally weighty cases. They're very well argued; I wouldn't disagree. We need somebody to consider which way we would go and that, again, is another question that you have raised. Therefore, you've just muddied the waters further. We need to reduce this. We need to refer this to a place where we can get some specific decisions on these kinds of questions.

Senator Nolin: This is going to be my last. Senator Mitchell, the Supreme Court —

The Hon. the Speaker: I think that with the two minutes left for time, I'm going to recognize Senator Segal to get his question or comment in.

Senator Segal: Thank you, Mr. Speaker. I want to thank Senator Mitchell for pointing out the "notwithstanding any usual practice or provision of the Rules" in the introduction to this motion.

I'm going to read a section of the Charter that Senator D. Smith made reference to in posing my question to him:

Whereas Canada is founded upon principles that recognize the supremacy of God and the rule of law...

11(d) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal....

32.(1) This Charter applies

(a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and

(b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.

I accept the analysis, the constitutional advice that Senator Nolin has given that we're special. Try to sell that on the street, but the constitutional position is we're special; we can do anything we want.

Colleagues, under the police act, a police officer has the right to discharge his weapon, but he, too, is governed by the Charter of Rights and Freedoms. So would you agree that we need to add another "notwithstanding" to these motions: notwithstanding the rules and regulations of this place and notwithstanding the Charter of Rights and Freedoms? That's what we should be doing, if we're doing it honourably.

Senator Mitchell: I get your point. Well made. I would certainly love to see us have time to debate that.

I would say, just to emphasize your point further, can you imagine a judge or the head of an employment tribunal, or even an employer of a reputable company that's firing somebody saying "notwithstanding any usual practice or provision of the Rules" before they made their ruling? Can you imagine that? I can't — not in Canada.

And, as you say, we have special powers; we're special, although it would be impossible to make that case. The fact of the matter is, because of that, if we are, as Senator Nolin would argue, somehow outside the realm of the Charter of Rights and Freedoms, then we have to be absolutely, infinitely more careful that we conduct ourselves in a way that's absolutely above reproach.

Back to my point and my final conclusion that we're not providing proper due process: We're not actually providing the rule of law, and I think we are endangering their rights and therefore the rights of all Canadians.

Senator Andreychuk: I'd like to rise on a point of privilege. I think Senator Segal should not say, when we say "Parliament is an institution with its own rules and rights," that it somehow feels

that it's special in the sense of the word that we are above the law. We are one institution. There is a separation of powers and Parliament has its unique role, as the judiciary has, as the executive, and I do not believe that it is special in the sense that the inference was that somehow we are above the rules. I think, on the contrary, we have a greater onus and responsibility than I would as a citizen where the Charter applies.

So I hope he didn't mean that inference.

Hon. Senators: Hear, hear!

Senator Segal: I'm glad to respond to the point of privilege. I know that the Speaker will determine in due course whether it is a point of privilege, and I'll offer no advice on that.

I will say this: Claiming parliamentary privilege is an important part of historic freedoms of the democratic evolution under the Crown, both in Great Britain and here. But using privilege as a pretext to impose rules that are arbitrary and not reflective of due process diminishes the standing of this institution and, therefore, is an offence to the privilege of every member of this chamber.

Hon. Senators: Hear, hear!

• (1600)

The Hon. the Speaker: I thank the two honourable senators for making their declarations.

Continuing debate.

[*Translation*]

Hon. Claudette Tardif: Honourable senators, the three motions before us today are unprecedented and have an impact on the dignity and reputation of the Senate and the fundamental principles that we hold dear, namely the rule of law, the presumption of innocence and due process.

Rather than pass judgment hastily by adopting these three motions, a number of senators have argued that this institution would be better served if we established a more transparent and fairer process within a special committee. This would allow us to explore all the relevant information and to do so within a reasonable timeframe. We would be able to make an informed decision in light of this committee's report.

Last week, there was talk of imposing a time allocation motion. On the weekend, based on what the Leader of the Government in the Senate told the media, the government changed tack, which speaks to its ad hoc approach.

When they are making things up as they go along, is this really a matter of protecting the dignity and reputation of the Senate? Is it a matter of enforcing the highest ethical standards and principles? Or is it a matter of dealing with these issues as quickly as possible in order to bury something that is a political embarrassment to the government?

If the government really wants to deal with this matter fairly and in a reasonable timeframe, then I think that the amendment proposed by Senator Cowan is a sensible solution.

[Senator Andreychuk]

[*English*]

The three motions in question which are before the Senate are some of the most difficult issues we have had to deal with in this chamber. We are all here because we care passionately about our country and its future. It is, in fact, a very special privilege to have the ability to serve in this institution.

Public officers, like all Canadians, must be held to account for their actions; but before we rush to judgment, we must remember that both the wrongdoings as well as our response to them reflect upon the dignity and the reputation of the Senate.

Honourable senators, I feel very uncomfortable imposing these sanctions hastily, stripping senators of everything but their title before we are assured that, as a chamber, we have respected the principles of fairness, due process and the rule of law—fundamental principles that serve as the foundation of our system of justice.

I'm not minimizing the allegations, but I'm defending these three senators' right to due process before we address the issue of sanctions, if we do conclude that such sanctions are appropriate.

There have been many thoughtful interventions from a number of senators indicating the need for due process and a full airing of the issues. There are still too many allegations that have been made that need to be investigated—and indeed we have heard some startling ones once again today—and far too many questions that remain unanswered to decide whether the disciplinary measures under consideration are appropriate and justified.

The senators in question were properly asked to repay all their wrongfully claimed expenses some time ago. What exactly took place between that time, when we were told that the case is closed, and today that justifies these sanctions? Do all the facts, once established, justify these sanctions? If so, what is the appropriate one in each case? What kind of precedent would we be setting imposing the sanctions before us? What would be the consequences of these measures, and the ramification of the process by which we have adopted them, on the reputation and dignity of the institution, the very things we are seeking to defend today?

As Senator Plett has asked: Would these sanctions set a precedent that would allow the Senate to effectively suspend any senator who has become an irritant? Or, as Senator Cowan and Senator Baker have pointed out, is there a risk that these sanctions might jeopardize the course of ongoing police investigations?

Honourable senators, we are not doing this institution any favour by rushing to judgment, by rushing our decision. We are the chamber of sober second thought. Both what we do and how we do it matter. That is why I support Senator Cowan's motion to refer this critical issue to a special committee, where the senators in question would have the opportunity to present their sides of the story and answer questions in a fair and transparent manner. A referral to committee is very appropriate in terms of getting the facts on the table and ensuring due process.

Like all of you, I am mindful of the need to protect the dignity and reputation of the Senate, but I do not see how rushing to judgment on these motions would serve this goal. In fact, I have received many emails from Canadians over the past few days telling me that rushing to judgment would do exactly the opposite, that hastily voting to suspend three senators before all the information has come to light would undermine the fundamental values of this institution and of our fundamental principles of fairness and justice.

Let me read a few emails I have received from the citizens of my province, the province of Alberta.

A first email reads as follows:

I respectfully request that you do not support the motion to suspend the three senators in question. At the very least, I would expect my representative in the Senate to ensure that all the facts are understood before any decision is made.

It would be a shame if these Senators do not receive due process as I feel that would only diminish the effectiveness of the Senate itself at a time when "Sober Second Thought" has never been more important.

Another citizen writes:

The continuing machinations and debate to suspend three senators without pay or benefits, most specifically health benefits (considering the age and health of two), is an affront to Canadians. We value due process, the rule of law and the presumption of innocence until proven guilty in a Court of Law!. This has been neither due process nor a fair hearing. This issue is about the government majority deciding who is fit to sit in the senate on the basis of a political judgment. The conservative party is casting itself in the role of plaintiff, judge and executioner. The senators deserve the opportunity of legal representation in a properly constituted hearing that allows All Canadians to hear ALL the facts.

In another email that I received, the citizen wrote:

I urge you to vote against suspending any or all of Senators Brazeau, Wallin and Duffy without them having opportunity for fair hearings with representation and opportunity to present evidence and question those accusing them. To not provide such an opportunity would surely detract further from the public's current deteriorating view of the Senate. Also, the more the matter has become public, the more important it is that the public have opportunity to believe that fairness has been in order, and a fair hearing held.

Let me read you a last email. I've received many more, but I just took a selective sample.

If the senate has a reason for being, it lies in its independence from short-term political expediency. The chance for "sober second thought," in pursuit of the best long-term interests of the country and its people, is its reason for existence, and to the extent that you pursue that ideal you can have a sense of personal pride.

The current proposal to remove the senators in question from their positions without due process is a travesty to our systems of government and justice. Irrespective of the merits of the different parties, the present process embarrasses me and threatens me as a Canadian who is conscious of the threat to my fundamental rights.

The damage that supporting this proposal would inflict on our fundamental values is totally unacceptable. I want to appeal to you as an individual Canadian to another individual Canadian: please examine your conscience and vote to protect the basic values of our society.

• (1610)

As I've said, these are but a few examples of the many emails I have received from citizens in my home province of Alberta and elsewhere in Canada.

Let us address this issue properly so that we can be satisfied that any course of action we choose upholds the dignity of this institution and respects the principles of fairness and due process that all Canadians hold dear.

Some Hon. Senators: Hear, hear.

Hon. Anne C. Cools: Honourable senators, I rise to speak to Senator Cowan's motion to amend in these unhappy circumstances by which the government has birthed this unusual trilogy of condemnatory motions — really the same motion repeated three times. These motions differ only in the names of the affected persons — the affected senators — Senators Brazeau, Duffy and Wallin.

Such legal sloth in drafting and its failure to observe individual due process is stupefying. You will never find three persons being charged anywhere else in bulk like this unless it's a conspiracy, which is different.

Honourable senators, in addition — and not in this speech but on the next issue — I shall raise the matter of their letters patent. Their letters patent, by granting to them their office by the power of Her Majesty the Queen, through the Governor General of Canada, grant them the rights to individual process, not one process repeated three times. There is something very wrong with that. As I said, it's stupefying, as is the government's haste to vote on these senators. I noticed that the government gave notice for closure a few days ago on Thursday. I observed that it began "That, notwithstanding any usual practice or provision..." Notwithstanding is called *non obstante*, and they're very famous words, but I do not understand why with our scores of rules we have, they can find no rule that is applicable to this situation and they need to invoke "notwithstanding." Something is wrong with that.

Honourable senators, these insufficient motions, their insufficient proceedings and their flagrant disregard for justice are screaming symptoms of colossal failure, the colossal failure of party politics, of parliamentary party caucuses, of human relations and betrayals therein. These motions are not about the Senate's problems or the Senate's legitimacy. These are about the government's problems and how the government manages its own caucus.

Honourable senators, this Senate is in judicial mode, in judicial proceedings, on these motions, which are punitive declarations of gross negligence.

I say “declarations,” not “findings,” because, as drafted, these motions do not ask the Senate to make a finding.

Honourable senators, overloaded with penalties and punitive measures, these motions ask for the Senate to make a declaration to order. It’s a different process. Overloaded as they are, I note that the British Constitution has always condemned the use of the judicial power, which we are in now, for political reasons or for political expediency.

This is a point that has not been yet raised, but the British Constitution, which the Constitution of Canada is, eschews the mixing of the judicial and the political and condemns totally the use of judicial process for political gain or reasons.

Honourable senators, these circumstances and motions have been a terrible tragedy for affected senators who have been painfully subjected to a protracted and public ordeal for the past year, an ordeal distinguished by its absence of due process, natural justice and arbitrariness.

Honourable senators, it has been most trying for all of us, for this high institution, this Red Chamber, the upper house and the house of Her Majesty’s Parliaments. Undoubtedly these tragic events have been a bonanza for the aggressive Senate abolitionists who are gloating on these events. But their victory is fleeting, because they underestimate Canadian capacity for fairness.

Many — including Nellie McClung — have called Canada “the land of the fair deal.” Honourable senators, the first duty of public men and women, which we are, is the duty of fairness, equity and justice for all, especially when one invokes penal processes.

Honourable senators, I have been emphatic here that I condone no wrongdoing. Likewise, I have been emphatic that I will not support injustice to, persecution of or the bloodletting of anyone. I come from a race of people; we are descended of free, coloured people, and it was drilled into my head that if you have to be the last person standing for justice, be that person. Stand alone, if necessary, but stand for justice.

When I grew up, colleagues, those I admired and was taught to imitate were not movie stars and basketball stars. They were the great social reformers of 19th century Britain, Lord Shaftesbury and Wilberforce, those kinds of human beings concerned with justice.

Honourable senators, some days ago, on October 16, the government, in the Throne Speech, caused His Excellency the Governor General to utter some unusual words, quite unlike the usual tone of Throne Speeches. He said:

The Government continues to believe the status quo in the Senate of Canada is unacceptable. The Senate must be reformed or, as with its provincial counterparts, vanish.

These are strange words to be put into the mouth of the Queen’s representative — very odd. It bothered me deeply.

I submit, colleagues, that the Senate is not about to vanish.

Presently the Senate is the primary focus of every journalist, broadcaster and media organization. I applaud them. I submit that many of them are on a steep learning curve, hurled into the lexicon and procedures of the *lex parliamenti*, the law of Parliament.

Sadly, in recent years, unlike previous generations, Canadians have been robbed of the language of Parliament. It is a serious problem when citizens no longer know the vocabulary of Parliament or governance yet are daily subjected to jargon and mind-numbing drivel, called spin and messaging, and staying on message. I wish to thank and laud all those journalists who have been in our galleries in recent days. I would like to say to this chamber that their presence here has given me great comfort because it reflects — some may disagree — a search for knowledge and for truth. I thank them and I add that the public of this land is craving fairness on these issues. I condone no wrongdoing but I abhor persecution, which this process is.

Honourable senators, the Right Honourable Prime Minister of Canada’s personal disaffection for the Senate is well known. Many here recall his and Senate leader Senator Marjory LeBreton’s press conference on December 14, 2006. It was right outside our doors; the Senate was then sitting. Many of us ran out to see what was happening. Many of us watched the exchange between the Prime Minister and a CTV reporter. I shall read the transcript:

Reporter: Good evening Prime Minister. Yesterday it was pretty clear from your remarks that you were disappointed with an unelected, unaccountable Senate, and you presented some...

Rt. Hon. Stephen Harper: I’m always disappointed with that. You know, as a Western Canadian, I wake up every day and the Senate bothers me. I curse the Senate.

• (1620)

They were right outside that door.

Honourable senators, the first principle of the law of equity is that suitors must come to the court with clean hands. Unfortunately, the Prime Minister did not come to the court of public opinion on Senate reform with clean hands, nor to the court of debate on Senate reform, or the court that is the Senate with clean hands. The Senate has stood cursed for the last many years, cursed by Her Majesty’s First Minister of Canada.

Honourable senators, these three identical motions are of some enormity. They are most serious and grave in their form, in their substance and in their goals. Their legal and constitutional probity should concern all senators, parliamentarians, jurists and citizens of this land.

This unique trilogy of suspensions is wholly unprecedented and contrary to Her Majesty’s letters patent under the great seal that constituted these three persons as senators. We must understand that senators are constituted individually. There are over 100 personal constitutions in this place. That is the nature of the grant of office with a life estate. How do you want to call it: life estate in

office, or life tenure? Judges' letters patent have that as well. Each senator is personally and individually constituted. Each senator has to govern his behaviour and its consequences by the letters patent. The consequences for the misbehaviour of high-office holders are very serious, but, in the case of the Senate, it is carefully defined in the British North America Act, section 31. 1-5.

The uniformity of these motions, as I said, offends these letters patent intended to protect senators from what is happening now. This arbitrary process has the effect of defeating or attempting to defeat the letters patent. The fundamental purpose and one of the conditions of the letters patent is that senators must attend at the Senate when called and summoned by Her Majesty. These suspension motions, in all their unusual ways, will deny senators that ability.

Honourable senators, these letters patent grant senators life estate in office, which is reserved for certain offices, mainly those that are judicial in nature as distinct from those offices which are ministerial in nature, as in ministers of the Crown. Grants of estate for life in office are deployed for offices that touch the administration of justice. The most visible are the Superior Court judges and senators. Life estate in office is the vital constitutional feature which dictates constitutional independence, hence the concept "judicial independence" or "Senate independence."

Honourable senators, the Senate is a court, in fact, part of the High Court of Parliament, with full inquisitorial and judicial powers that include imprisonment, subpoena, trial and impeachment. Many may not know, but an impeachment is a trial by the Upper House, usually for political or criminal offences, but criminal offences related to politics. Impeachments are for highly placed persons not easily amenable to ordinary persons.

Honourable senators, senators' independence is granted before the Queen's letters patent. Tenure for life is the constitutional protection from encroachment or violation of certain office-holders by the executive government of the day. Its purpose is to protect and secure certain office-holders from reprisals from the executive, whose powers are ministerial in nature. This is called the balance, or equilibrium, of the constitution. This constitutional comity is a prerequisite to its proper working.

Honourable senators, this trilogy of identical motions raises large constitutional questions, the most important of which is the most avoided question of all: Just what are the constitutional limits of the powers of a prime minister, an informal position with no legal existence, that is not mentioned in the Constitution Act, 1867, and rarely in any statute?

The essential question is the constitutional limits of that power and how defined. In other days, that power relied on the personal influence and abilities of the occupant, mainly the force of moral character and moral conviction, the force of intellect and reasoning, the force of personality and of articulation, and the force of persuasion and leadership ability.

Our leadership still, in very recent years—

Hon. Gerald J. Comeau (Deputy Leader of the Government): Senator Cools, I note that your time is over. Will you be requesting an extra five minutes?

Senator Cools: Happily.

The Hon. the Acting Speaker: Five minutes, agreed?

Some Hon. Senators: Agreed.

Senator Cools: In very recent years, these human and humane talents have been replaced by a new youthful creature of an unknown species named the PMO. I have watched this term develop and take currency since I came to the Senate. The PMO, as if the PMO is a fearsome animal. This species seems to have its own unique coercion.

I have been summoned over there before. I know what I'm speaking about.

The question deeply embedded in these motions is the proper constitutional limits of these powers. Honourable senators, these motions have made this avoided question top of mind and it is a deep and worrying matter for most of us. These motions are about the practice of politics and political party caucuses that infantilize mature adults, demanding that they be children or automatons whose wills and minds are controlled by someone else.

Colleagues, I pose a question: Should it be as easy to put a senator out of the Senate as it is to put a senator out of a party caucus? I say no. I say these motions are an attempt to amend the terms and conditions of senators' letters patent, particularly their tenure of office and their life estate in office which is granted by the Queen's authority by the Governor General.

These letters patent are not legally altered or amended, but are liable to forfeiture for non-performance of the letters patent's terms and conditions.

These three suspension motions are wholly insufficient, not only because they are arbitrary and contrary to the rule of law, but because they are pretender motions. Honourable senators, these motions will have the effect of surgically excising these senators from the Senate. They will have the practical result of removal motions.

These three motions state that the suspensions will be in force until the Senate rescinds them. We must be forthright where these motions are not. Practical reality and contemporary politics, as they are currently, inform that there is no likelihood or probability that this Senate will ever rescind these suspensions. If these motions intended the rescission of the suspensions any time in the foreseeable future, they would specify an end date, which date would be part of the Senate order that we would be voting on.

Honourable senators, if rescission was to be in the foreseeable future, it would say the suspension would be from X day to Y day. This absence of an end date tells all. It is clear. We shall look

this mischief in the eye and see these motions for what they are. These motions as they are will rid the Senate of these three senators.

We must admit that if these motions are adopted as is, these senators will not be back, either by Senate inaction to rescind, by illness, or death brought on by the stress of these ordeals.

We should also admit, colleagues, that these Senate proceedings are a prejudice to the RCMP investigation of these senators. I've always maintained that the decision to turn these matters over to the RCMP was one for this whole Senate, not for the Senate Internal Economy Committee or the steering committee thereof.

• (1630)

Honourable senators, I will ask again that the government consider either withdrawing these motions and coming back with better ones or amending these motions quite thoroughly.

As I said before, I shall not be voting for these motions as they are. I still believe that there is room for change. I have dealt with Senator Carignan for many years, and have found him to be a decent and good man. I would appeal to Senator Carignan — and he knows I have a lot of respect for him — that he should accept very serious amendments on these things. It is of the utmost importance. Thank you.

The Hon. the Speaker: Continuing debate? There's a question for Senator Cools. Her time is up?

Senator Cools: May I have an extra five minutes to hear from our honourable friend, the former general?

Hon. Roméo Antonius Dallaire: I've just been set up.

Senator, you mentioned that you were looking to Senator Carignan to rescind these government —

Senator Cools: Withdraw.

Senator Dallaire: Or withdraw, sorry, these government motions, but I believe these motions are in his name and not the government's. Could you explain why that might have happened?

Senator Cools: I really can't. I think Senator Carignan is a better man than I to do that job.

I do not understand it. It looks like a government motion, it is behaving like a government motion, and they're moving closure on it like a government motion. We had a Leader of the Government here named Senator Olson, who used to say, "If it walks like a duck, if it quacks like a duck, and if it did something else, that's because it is a duck." I would prefer Senator Carignan to answer and to keep the record clear on who does what.

Honourable senators, the unusual thing about this motion is its manner of proceeding. It seems to be at one moment not a government motion and at another moment to be a government motion.

I sincerely believe that just because someone has set out on a course that is turning out to be harmful or wrong or improper, stubbornness is no reason to stay on it. If the government took the wrong road, turn around. It takes a lot of political experience to be able to say, "We went down this road. This is the wrong thing to do. Let's try another one." Or, better still, just accept good amendments to the motion, because I know, Senator Carignan, there are many marvelous amendments that I can move if they would get your favour. Thank you.

Senator Dallaire: Last week, I raised the unusual process of shotgun justice by all three motions being tabled at the same time, and then we're proceeding, although one after another, but they are all being intertwined. Even when you are hearing colleagues who are giving their presentations, their debate, we are referring to all three, although we might be talking on one.

Where does this fit into a process of due diligence for each one, where subject material might be used from one to the other versus taking each case, cleaning it up, and then cleaning the other up, and the other one subsequently? The way we're doing it now, by these motions, it seems to me like it is shotgun justice versus individual response to an individual being held accountable for their previous actions.

Senator Cools: Thank you for the question. You neglected to say that there's one closure motion for the three suspension motions.

I would say it is unusual. I would also say I do not like it. I do not believe this is the best way to proceed. I happen to think very strongly that the existence of letters patent in our case lays out, in law, that senators in trouble have a right to individual process, not bulk, joint process.

Senator Mitchell: That's a good point.

Senator Cools: Honourable senators, that is a huge thing. If this was a case of judges involved, you wouldn't find all three judges being thrown into one box or one package; they would be dealt with individually. That would be preferable. Individual process is better.

There is no doubt that this is not accidental, the new notice of motion is a strange kind of closure motion. It is not a government bill, and we're not really sure what rules it's based on, but the mere fact of this one motion is closure for all just heightens my concerns.

And, remember, closure is an old thing. I will get to that when this motion is called.

Closure is a way of throwing the house into a despotic state, into a dictatorship, terminate the debate.

The misbehaviours of senators that could justify harsh penalties and harsh judgments are codified and enumerated in section 31 of the BNA Act headed the "Disqualification of senators." In section 31.

There are five sections, one of which is attendance, but the suspension motion itself will foster non-attendance. The one that may be most relevant is the fourth one: if he is attainted. Well, we don't do attainder anymore, there is no need.

[Senator Cools]

Section 31.4 says:

If he is attainted of treason, or convicted of felony, or of any infamous crime.

We must understand that crime there does not mean the same thing that crime meant today. Crime today is an offence as against the Criminal Code. The Criminal Code was only introduced in 1892; this was written in 1867.

The word “felony” meant offences, crimes that were extremely serious and related to their violation of allegiance. In other words, related to treason.

In other words, it is very clear: If some senator lost his mind and went and stole a box of chocolates, that act would not qualify for disqualification. The intention means very serious offences. Thank you so much.

The Hon. the Speaker: So, honourable senators, we are on debate. Senator Segal is rising on debate.

Senator Segal: Thank you, colleagues.

I rise to address the motion before us dealing with Senator Wallin. In doing so, I want to share some biases and prejudices which I bring to this discussion. We all do, but I think it's a good practice to share them with colleagues in advance.

I come to this motion as a Conservative. My initial contact with conservatism started with another person from Saskatchewan by the name of John Diefenbaker, who visited my primary and secondary school in Montreal on Avenue Saint-Kevin in 1962. I was 12. Mr. Diefenbaker came to present to the principal of our school the Canadian Bill of Rights, which had passed the House of Commons and the Senate a few months earlier.

• (1640)

It was a school of either immigrants, the children of immigrants or the grandchildren of immigrants. When John Diefenbaker came to our school, he said, as he made the case for a Canada that was open and free and democratic, based on the presumption of innocence:

I am a Canadian, a free Canadian, free to speak without fear, free to worship in my own way, free to stand for what I think right, free to oppose what I believe wrong, free to choose those who shall govern my country. This heritage of freedom I pledge to uphold for myself and all mankind.

As a 12-year-old kid, I was pretty affected by that. This was dangerous in the home from which I came because my father was a Liberal campaign manager — I loved him for many things, but he wasn't perfect — for the Honourable Miltie Klein, Q.C., MP for Montreal Cartier. I went home on that Friday night and declared at the dinner table that I liked Mr. Diefenbaker and I would be supporting his candidate in the local riding of Mount Royal, a young developer by the name of Stan Shenkman, who, I sadly have to admit, lost his deposit against the Honourable Alan Aylesworth Macnaughton, who was the Speaker of the other chamber.

That was not a happy bit of news for me to bring to the Friday night table in our home. My father said those wonderful words which every pre-teen waits for: “Over my dead body!” I didn't fully understand why that got me so excited — I see Gerstein is laughing. It got me excited because I knew there was one thing I could do that would upset him all the time. And I did work for Mr. Shenkman in that federal campaign.

In 1969 I began working for the Reverend David Samuel Horne Macdonald, MP, from Egmont, P.E.I. His great breakout in P.E.I. was to work with Jerry Steele, a Roman Catholic priest, together — a United Church minister and a Roman Catholic priest — on problems in the community of alcoholism, marital breakdown and family violence. That was a difficult thing to happen. Remember, P.E.I. had councilmen and legislative members —

Senator Hubley: Assemblymen.

Senator Segal: Assemblymen, thank you. The Catholics ran for one seat and the Protestants ran for another. The Tory Protestant would run against the Liberal Protestant and the same thing for the other, so as to make sure there was never a direct religious clash: another kind of civilized Canadian accommodation in the cradle of Confederation.

But he was the young MP who stood by himself in the other house against the Public Order Act, which was the continuation of the War Measures Act, an act in my view which has never been justified by history. He stood up against arbitrary measures. He was the only MP — Liberal, Conservative, CCF, NDP, Crédit social — to do that, and he did it because his conservatism did not submit to the arbitrary measures of others. Any bill that took away what was then the Bill of Rights and the suspension of freedom was something he could not support.

I worked for the Right Honourable Robert L. Stanfield, former Premier of Nova Scotia, a Leader of the Opposition in this place, who supported official bilingualism when it was profoundly unpopular amongst large parts of his base. I remember going door-to-door for him as a candidate in Ottawa Centre, supporting official bilingualism, and having people open the door and say, “You're that young bilingual Tory candidate, aren't you?” I'd say yes and they'd slam the door in my face.

But I also learned from Bob Stanfield that it is never wrong to ask the tough questions, it is never wrong to stand up against the arbitrary use of authority, and it's always right to ask the question, “How would this look outside this chamber to our fellow Canadians, reflecting on the content and the substance of what we are doing here?”

I had the privilege of working for the Honourable William Davis, who created TVOntario, who created the new human rights code that gave rights to our gay fellow Canadians in Ontario for the first time in that province's history; who brought in the principle that nobody had the right to be refused access to post-secondary education because they lacked the financial capacity to get there; who brought in the guaranteed annual income supplement for seniors in that province, which, in one year, reduced the level of poverty for seniors from 35 per cent to under 3 per cent.

I also had the great privilege of working for the Right Honourable M. Brian Mulroney, whose opposition to apartheid, despite pressure from Mrs. Thatcher, Ronald Reagan, whose support of bilingual rights —

[Translation]

— even in the province of Manitoba, our dear colleagues will remember when this was a problem for Acadians —

[English]

— showed that courage and determination on issues of human rights, fairness, constitution, which we have always benefited from.

It was my privilege to support, as I still do, the Right Honourable Stephen Harper, and it was my great privilege to chair the transition planning committee for 2004. Now, he wouldn't let me chair the planning committee in 2006 when there was a real chance of winning — I understand that — but they did let me chair the one in 2004. I was impressed by his commitment to principle, to fairness, to an inclusive Canada, to an approach that respected the common rights of average people right across this country. My reference to that really leads me to why I am opposed to the content and substance of this motion on Senator Wallin.

When it was my privilege to work for Mr. Davis in the constitutional negotiations of 1981 and 1982, which resulted in the Charter of Rights and Freedoms, I remember as part of the Ontario team the huge discussion about the Charter. Our colleagues from Manitoba will remember Sterling Lyon, who didn't like the idea of superimposing upon Parliament any fundamental constitutional rule that would limit their freedom. That is where, in the compromise that was shaped, we came to the notwithstanding clause, which allowed the Charter of Rights to be the predominant operating premise within the Constitution, but gave any province and federal Parliament the right to use the notwithstanding clause when circumstances required it. The fact that it has been used almost not at all tells us how committed our fellow Canadians are to its principle, its underlying fairness, its presumption of innocence and its broad framework relative to due process.

Colleagues, my worry about what we are in the process of doing with this motion now is that we are going to create for this chamber, with all its other substantive problems, which we need to address together, a new, more serious problem across the country. It is one thing to wonder whether we manage our expenses properly, and the Auditor General will sort that out for the public and Canadians to know in the next two years — and I think that's first-rate. It is quite another to question whether we understand the premise of fairness, the premise of due process, the premise of presumption of innocence, because if we convey through action on these motions that we in fact do not, then I suggest we will have created a far more serious problem for this institution than it now has.

I want to deal directly with those elements in the motion that relate to Senator Wallin, and I want to deal with the Standing Committee on Internal Economy, Budgets and Administration, the meetings that took place on August 12 and 13, which I

attended. I point out without being critical that I'm sure, despite the best efforts of the Clerk's office, we have yet to receive the transcripts, to the best of my knowledge — oh, they've just been distributed. When you look through those transcripts, you will be able to see some of the specific concerns that I wish to put on the record so all senators can be well advised of them.

Two meetings were held in August, a briefing by the Deloitte auditors to committee members on the evening of August 12, and a full committee hearing the following day to finalize the report. A draft of the report was prepared by the steering committee before the meeting of the committee itself, even with the auditors, on the evening of August 12. It's important to keep that in mind.

• (1650)

As such, in the hearings of the committee, Senator Baker pointed out that that committee, in fact, constituted a quasi-judicial process. As such, the expectation would be for members to conduct themselves in a manner that is both fair and is also seen to be fair.

I want to say this at the outset. I have the greatest personal respect for all the members of that committee. I think they all acted honourably. I think they all did their very best to be fair with the information they had. But I also contend that some aspects of groupthink that takes place around any table when there are many people involved produced unwittingly, perhaps, a very biased report, and I will share with you my evidence in support of that contention for your consideration.

Senator Wallin outlined in her statement late in the afternoon of August 12 that she disagreed with the apparent bias and resulting unfairness of the process for many reasons, but specifically the misapplication of rules and standards brought in on June 12 and then applied retroactively to the date of her appointment, back to 2009. When, on August 13, the Deloitte auditors were questioned by me as to the reasoning of the retroactive application of the rules, they stated that they were informed that the 2012 rules were not new but simply a compilation of all those that had gone before. When I asked who had given them this information, I was told "Senate staff" and the steering committee.

Colleagues, in the tabling document of the eleventh report of the Standing Committee on Internal Economy of May 17, 2012, the final sentence states:

The Senators' Travel Policy shall come into force at the date of the adoption of this report.

The report was adopted on June 5, 2012.

I have a copy of those new travel policy directives issued on May 10. You can see the red stamp, "Under Review," so even the standards that were retroactively applied to Senator Wallin's expenditures are, as we speak, under review.

Colleagues, when the auditors informed me that the retroactive application of the travel rules was the result of advice from Senate staff and the steering committee, another committee member asked whether or not the auditors had, as required under the provisions of the Standard Practices for Investigative and

Forensic Accounting Engagements for the IFA and the CICA of Canada issued in 2006, substantiated the standards in an independent way and determined independently that those were the standards that applied. Again, the answer from the auditors was no.

One can only conclude that the effect of new standards being applied retroactively would constitute a problem in law. I'm not insinuating that there was intent or malice within the committee or even amongst the auditors, but this was a very problematic mistake. It would be like saying to millions of Canadian taxpayers who had honestly filed their taxes for the past five years that they were now being reassessed by CRA on new standards passed yesterday. That's what the auditors did in their analysis of Senator Wallin's expenditures.

If you look at the 73 per cent approval of her travelling costs over five years and the 100 per cent approval of her in-Ottawa housing costs — could I ask for a few more minutes?

Hon. Senators: Agreed.

Senator Segal: And if you look at what the old standards would have done as a judgment basis for her expenditures, we would be dealing with a level of compliance of between 85 to 90 per cent. This motion throws her off a cliff for a lack of compliance of 10 to 15 per cent over five years. That's what we're talking about. That's why this motion is so unacceptable on any basis of fairness.

The night after the briefing of the auditors, CBC reported that very evening that auditors had learned from former staff of Senator Wallin that they had alleged "fiddling of expenses." I put this question to the auditors the very next morning, who stated unequivocally and without reservation that they had not determined, seen or inferred anything of the sort. I then asked the committee, when they were reviewing their report, "Would you include that assertion by the auditors on the record, in this room, in that report?" The committee, in its wisdom, refused to do that. Colleagues, if that isn't unwitting bias, it is nevertheless bias.

When I made the case that that should be included, a very brave member of the Senate audit staff tried to intervene in support of my position because the former staff who had worked for Senator Wallin were absolutely crushed that they would be cited by the CBC as having said anything of the kind with respect to the fiddling of expenses. She was cut off and couldn't finish making her points.

Here are the differentiations. The staff says that the old rules and the new rules are the same rules; nobody challenges that. The staff says that we should put a fact in the report that clarifies that there was no fiddling of expenses, and that's disallowed by the committee. Colleagues, that screams bias to any rational observer of this circumstance.

Senator Wallin has made mistakes. She has been the first to admit to those in this chamber and elsewhere, and I don't believe that there is any circumstance in which she has suggested that she is perfect. But for this motion to — and this relates to proportionality — take twice as much by grabbing her salary for two years, so that's \$270,000, than the amount at dispute,

which has been paid back with interest, indicates, unwittingly, that we're running a retroactive standards, abrasive process, and now we're doing it at a 200 per cent profit. Tell me how that brings any decency or respect to the activities of this chamber, should we pass this motion.

Recently, in the United Kingdom, the House of Lords had a much more difficult expense process to sort out. They ended up with a review committee that is not made up by senators, not made up by members of the House of Lords. It is made up by outsiders. There are some lawyers, but they're in the minority. Peer review is what we use to decide what learned article gets published in an academic journal. Peer review decides who gets appointed from an associate professor to a full professor. Peer review is not how you trash people's reputations, in this place, in committee or anywhere else. That's what this sentencing motion does without any of the protections of due process, which most of us would require.

One final comment: I am delighted to have and I thank the government leader in the Senate for facilitating the distribution of the transcripts of the meetings of August 12 and 13. I hope all of my colleagues will take a moment tonight, before we face whatever votes are forthcoming, to review those transcripts because I think they will make the case, as respectfully as I've tried to do so, that despite the best efforts of the committee, the decency and the integrity of every member of that committee, the end result of decisions they made was in fact massive and unbalanced bias, and the notion that the motion before us is based on a document that is that biased is a total travesty of any sense of justice.

Colleagues, I urge you to vote against this motion, both for reasons of process and, above all, for reasons of content.

Hon. Lillian Eva Dyck: Would the honourable senator take a question?

Senator Segal: Yes, by all means.

Senator Dyck: I listened carefully to your speech. As you know, last week I talked about the notwithstanding clause in the three motions, that notwithstanding any usual practice or provision of the rules, we're going to suspend these senators without pay and benefits and so on. After listening to you today, I'm wondering about the first part of that, "notwithstanding any usual practice."

• (1700)

From what you said, the new rules have been applied to Senator Wallin's case, which is not the way it should have been done. When Appendix A came in, that was applied to her audit. I believe that's what you said.

Now, if you look at what this says, "notwithstanding any usual practice," if we pass that then we would be saying that that was correct, and clearly you're saying it was not correct. Does what I'm saying make sense?

Senator Segal: I believe you are correct.

Colleagues, let me offer a cautionary tale. Last week I was invited to go to the Business Community Anti-Poverty Initiative, in Saint John, to speak of the work that had been done by both

the committee on rural poverty and the committee on urban poverty, and I was delighted to do so. Because of the new practice of applying new rules retroactively, I wrote to the Finance Directorate to see if I could do that and use my 64 points. I knew, Senator Munson, I had the right to do that, but I no longer trust the operation of the system because of the “under revision” stamp on the new rules. They were very gracious. They gave me a letter and approved my travel to go and speak in Saint John and meet some wonderful people who are working their hearts out to end poverty and not just to help people live within poverty. I learned from them and I tried to be helpful to them, but the reason I did that is because I don’t want to be facing — and none of us in this chamber wants to be facing — a retroactive audit based on new rules that come into effect in a year from now on things that did follow the rules now.

To make the case of my colleague from Saskatchewan, that’s where we’re headed because of the nature of this report and the nature of this motion before us.

The Hon. the Speaker: Senator Segal’s time has expired. Is he asking for another five minutes? Agreed.

Hon. Pierrette Ringuette: Senator Segal, on the issue that you have brought up in regard to what the auditing firm has accepted as the rules and applied retroactively, have you looked at the three other reports and have the three other reports also been done under the same premise of applying these rules retroactively?

Senator Segal: Senator, I didn’t attend the Internal Economy Committee meetings with respect to our other two colleagues, but I did attend the ones with respect to Senator Wallin. What I was reporting on the today was the back and forth in the meeting between the auditors and members of the committee. I’m unable to do that with respect to the other two senators who appeared before or almost appeared before their committees when the time came, but I would make this case: I think all of us have the right to see the transcripts of those meetings as well because only when you see those transcripts can you actually understand.

I don’t blame the auditors. I don’t think the auditors were being *méchant* or purposefully nasty or wilfully unfair, but if they’re given certain standards to use by their client and they apply them and don’t verify independently whether they apply to everyone else at the same time, then you have a problem. I have no reason not suspect that some of those same difficulties existed with respect to our other two colleagues.

The Hon. the Speaker: Continuing debate, the Honourable Senator Comeau.

Senator Comeau: Honourable senators, I was not going to speak on the issue of the sanctions, but now I think I’ve been sucked in by the last comments of the last senator. I’m going to try to limit my comments to the process of reviewing senators’ claims rather than getting involved in the issue of the sanctions.

Accusations have been made that the process was “sloppy” and “biased” and the resulting conclusions of the Senate administration, Deloitte, the Internal Economy Committee and, in the case at least of three reports submitted in this chamber, of

this whole chamber. Therefore, I think it’s important that we do look at whether the process used at the Internal Economy Committee is in fact unfair.

I would like to remind senators that the mandate of Internal Economy is to review expense claims and ultimately determine if they are parliamentary business, whether they are to be accepted or rejected.

Let me assure honourable senators on this related point: I think it was last week when one of the senators in this chamber said something to the effect that when he was appointed to the Senate he was advised by one of the officials in the administration, “Senator, whatever you deem to be an expense is an expense.” Talk about an open process.

In my view, any official of the administration who makes any kind of comment along this line, any official who says to a senator that anything you deem to be an expense is an expense for Senate business, their name should be made known on this floor and at that time the steering committee and the Internal Economy Committee may wish to have a heart-to-heart discussion with that official.

I don’t think such a blanket smear should be directed at our administration. I have a lot of time for the administration. I believe our administration does great work and I am proud of the work they do and I don’t think they deserve to be smeared in this way.

In fact, last week I read in the comments that Senator Ringuette had complained that she and Senator Harb were refused a trip to Lebanon to act on behalf of a New Brunswick farmer. She complained that the Internal Economy Committee had refused the approval of her travel. I think that goes to show we do take the business seriously, we do say no and a blanket cheque is not written to senators. I can assure honourable senators that both the administration and your members of the Committee on Internal Economy take their responsibility very seriously.

When questions were raised by the Senate administration, the decision was made to hire outside auditors to do a professional forensic audit. We did this in order not to be accused of taking care of one of our own, so we went to Deloitte, which is a responsible, reputable auditing firm, and we asked them to do the work on our behalf. Our own Senate administration, which I indicated a few minutes ago is very professional and does good work, does not have the forensic auditing abilities of a firm such as Deloitte.

An added advantage of going to an outside firm, as I indicated, is that there is less chance of being accused of interference. A firm like Deloitte has a reputation of professionalism and integrity. It would not be in business otherwise and, if nothing else, I think we can rely on the fact that they do have a good reputation.

I have said it before and I’ll say it again, I would invite Canadians and people in this chamber to read the Deloitte reports and make their own opinions on whether Deloitte did their work professionally. I would like to invite Canadians, as well as senators in this chamber, to read the transcripts of the meeting to which Senator Segal just referred, to determine whether the work was done professionally as well.

Accusations have been made that Deloitte applied rules retroactively and that the Internal Economy Committee either supported that unacceptable practice or in fact tried to nudge Deloitte into doing it. In fact, Senator Wallin stated on October 23:

... I have had several independent auditors tell me of late that they were shocked that Deloitte would agree to audit my expenses under rules that were not in place when those expenses were incurred.

I will quote that again:

... I have had several independent auditors tell me of late that they were shocked that Deloitte...

Now, I'm quite sure it would be important for us if Deloitte has in fact been evaluated by several auditing firms and that the value of their work and the credibility of their work have been evaluated by those auditors. I think these auditors should be named. We might in fact hire them if they're so good. If they're so good that they're able to do an assessment of Deloitte, that it did shocking work, I think we might want to see who these firms are. They might get business from us, but they should be named. Drive-by smears have no business in this chamber, in my view.

• (1710)

I would ask Senator Wallin to provide us with those names. In fact Deloitte states on page 13 of the Wallin report — and I invite you to look at it:

... the overall principles of the policy did not change; ie., travel costs would be reimbursed if the purpose of the travel was to carry out the Senator's parliamentary functions.

On page 2 of the of the Deloitte report:

Appendix A to the Senator's Travel Policy. Although it was introduced on June 5, 2012, we have applied these examples throughout the period of our review, as we understand they provide specific examples of the existing policy principles.

That was also a direct quote.

Now, as far as the senators go, every step of the way, every step of the process, they did have access to the Deloitte auditors, to the steering committee and in fact to Internal Economy. Any suggestions to the contrary are wrong.

Again, I invite senators and interested Canadians to read the Deloitte report and come to your conclusions.

You know, it isn't always easy to set up a complete list of dos and don'ts, and I don't not think this is what senators in fact had asked us to do — a complete kind of civil list; this you can do and this you cannot do.

There are certain times that a senator needs to expend some of their budget money on items. If they're in any doubt whatsoever, they do have access to the administration, which, in my view, does

marvelous work. They do have access to the steering committee, which tries to do the best they can on behalf of senators; and they do have access to the full Internal Economy Committee if they don't like the responses that they're getting from both the administration and the steering committee.

They do have access to appeal to the full Internal Economy Committee, but we do have to have certain controls in place so that it is not a blank cheque that is issued by the Senate. In fact, we are dealing with taxpayers' money and I think we do have to be mindful to taxpayers. They are the ones that foot the bill, at the end of the day, and I think it's responsible for us to be mindful that if we do Senate business that it be done, Senate business, and not for private business.

The Hon. the Speaker: The Honourable Senator Duffy, questions and comments.

Senator Duffy: If the chair would take a question, just a matter I had meant to raise earlier, colleagues.

First of all, congratulations to the honourable senator on his appointment as chair of this important committee. I wonder — this is what I meant to mention earlier — if he would do me the courtesy, as he has done with Senator Wallin, of providing the transcript of my meeting with the board at which Deloitte were also present. I'm not exactly sure off the top of my head the date, but I'm sure Dr. O'Brien has it in his vast research reservoirs.

I'd appreciate that; thank you.

Senator Comeau: I presume you're referring to the full Internal Economy. I'd have no problems with that, if we can find them. I imagine these can be found.

The Hon. the Speaker: Honourable senators, I think the request is from Senator Duffy that whatever record there is of the meeting of the Internal Economy Committee, those dates. Would leave be granted for the tabling of such documents?

Hon. Senators: Agreed.

The Hon. the Speaker: So ordered.

Hon. Joan Fraser (Deputy Leader of the Opposition): A question for Senator Comeau, if he would accept one.

Like you, I heard reference in debate along the lines that an expense is whatever you deem. But the first reference I heard in this now quite long debate was a little different to this supposed matter. It came from Senator Plett in his speech last week. What he said was that when he asked an official what Senate business was — not expenses, Senate business — the answer was, "It's whatever you deem to be Senate business." While there have been hosts of discussions around this place about what may or may not constitute Senate business, I think we would all agree that historically —

(Debate suspended.)

BUSINESS OF THE SENATE

The Hon. the Speaker: I regret, honourable senators, and particularly Senator Fraser, to be on my feet. However, it being 5:15 p.m., pursuant to the order adopted on October 25, 2013, I must interrupt the proceedings for the purpose of suspending the sitting until 5:30 p.m., at which time the Senate will proceed to the taking of the deferred vote on the motion in amendment of the Honourable Senator Fraser to the motion of the Honourable Senator Cowan regarding Motion No. 2.

We stand suspended for the vote at 5:30 p.m. Do I have permission to leave the chair? Thank you. Please call in the senators.

• (1730)

THE SENATE

MOTION TO SUSPEND THE HONOURABLE SENATOR PATRICK BRAZEAU—MOTION IN AMENDMENT NEGATIVED—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Fortin-Duplessis:

That, notwithstanding any usual practice or provision of the Rules, in order to protect the dignity and reputation of the Senate and public trust and confidence in Parliament, the Senate order a suspension for the Honourable Senator Brazeau for sufficient cause, considering his gross negligence in the management of his parliamentary resources, until such time as this order is rescinded pursuant to rule 5-5(i), and such suspension shall have the following conditions:

- (a) Senator Brazeau, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional allowance or living allowance;
- (b) Senator Brazeau's right to the use of Senate resources, including funds, goods, services, premises, moving and transportation, travel and telecommunication expenses, shall be suspended for the duration of the suspension; and
- (c) Senator Brazeau shall not receive any other benefit from the Senate during the duration of the suspension;

That, notwithstanding the provisions of this suspension motion, the Senate confirm that the Standing Committee on Internal Economy, Budgets and Administration retains the authority, as it considers appropriate, to take any action pertaining to the management of Senator Brazeau's office and personnel for the duration of the suspension;

And on the motion of the Honourable Senator Cowan, seconded by the Honourable Senator Fraser:

That this motion be referred to our Standing Committee on Rules, Procedures and the Rights of Parliament, when and if the committee is formed, for consideration and report;

That Senator Brazeau be invited to appear; and in light of the public interest in this matter, pursuant to rule 14-7(2), proceedings be televised.

On the motion in amendment of the Honourable Senator Fraser, seconded by the Honourable Senator Munson:

That the motion be amended by replacing the words "Rules, Procedures and the Rights of Parliament" with the words "Internal Economy, Budgets and Administration".

The Hon. the Speaker: Honourable senators, the question before the house is the motion in amendment moved by the Honourable Senator Fraser, seconded by the Honourable Senator Munson.

That the motion be amended by replacing the words "Rules, Procedures and the Rights of Parliament" with the words "Internal Economy, Budgets and Administration."

Motion in amendment negatived on the following division:

YEAS THE HONOURABLE SENATORS

Callbeck
Campbell
Chaput
Charette-Poulin
Cordy
Cowan
Dallaire
Dawson
Day
Downe
Dyck
Eggleton
Fraser
Furey

Hervieux-Payette
Hubley
Jaffer
Joyal
Lovelace Nicholas
Mercer
Mitchell
Moore
Munson
Ringuette
Rivest
Robichaud
Tardif
Watt—28

NAYS THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Bellemare
Beyak
Black
Boisvenu
Braley
Buth
Carignan
Champagne
Comeau
Cools
Dagenais

McCoy
McInnis
McIntyre
Meredith
Mockler
Nancy Ruth
Neufeld
Ngo
Nolin
Ogilvie
Oh
Oliver
Patterson
Plett

Demers	Poirier
Doyle	Raine
Duffy	Rivard
Eaton	Runciman
Enverga	Segal
Fortin-Duplessis	Seidman
Frum	Seth
Gerstein	Smith (<i>Saurel</i>)
Greene	Stewart Olsen
Housakos	Tannas
Johnson	Tkachuk
Lang	Unger
LeBreton	Verner
MacDonald	Wallace
Maltais	Wallin
Manning	Wells
Marshall	White—63
Martin	

ABSTENTIONS THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, just for clarity, the matter now continues to be on this Order No. 2. After having taken this vote, we must continue with Order No. 2, and the question before the house is the subsidiary motion by Senator Cowan, seconded by Senator Fraser.

We will get, after Order No. 2, back to Order No. 3, which we had just left prior to breaking for the recorded vote. We will be calling on Senator Comeau at that time, if he wishes to ask for another five minutes, and then there may be questions and comments.

The question before the house is Order No. 2 and the motion in amendment by Senator Cowan, seconded by Senator Fraser.

On debate.

• (1740)

Hon. Jim Munson: Well, honourable senators, that was the first period on that vote, so who knows about overtime.

I think it's important that we've heard a lot of senators speak on this issue. It's like we're all talking inside the same room saying different things, so I thought I'd like to put on the record a number of emails that we've all received from Canadians across the country. I find it rather interesting that the same Canadians who had justifiable anger over what they had read over the past three or four months about what was perceived or the allegations of what happened with the three senators and their expenses, the same Canadians are now sending another message, and that is a message of due process, due diligence, being fair in what we're doing here in the Senate. While we speak here and everybody has their voice heard, I don't think Canadians are having their voices heard as much as we would like, so I'm going to read into the record a number of emails from across the country.

The first one:

Dear Senator Munson

I urge you to exercise your duty to give sober second thought in the issue of the motion presently before the Canadian Senate intended to suspend, without pay, Senators Duffy, Wallin and Brazeau.

I was an immigrant to Canada and am now proud to be a citizen of this country, where I have come to expect fairness and justice will be properly exercised at all times in respect of judging all citizens. Thus, I am greatly troubled by this motion, which in my view, fails with respect to providing fairness or due process to these three senators.

Like many Canadians, I was appalled by the allegations of misuse of public funds when they were reported....

However, while there have been allegations of abuse of that trust by the three Senators, named above, levelled by the media, many members of the public and in particular by the leaders of the federal Conservative Party of Canada, these individuals have not been charged with a crime and have had no opportunity to respond, in an appropriate forum and with due process, to the allegations.

That was from a gentleman in Toronto.

In dealing with other emails, to respected senators, there are more in my binder.

I am emailing you because you represent me, a resident of Ontario, in the Senate. The Senate should not be a political toy, but must represent the democratic values of the country.

As one of your constituents, I want you to know that I view the motion to expel Senators without due process or confirmed guilt, as contrary to the principles upon which our system is built. In fact I view it as an expression of contempt for our institutions and processes. You owe it to Canadians to vote against this motion on principle....

I trust you will find this input from your constituent useful.

This next gentleman is from Kitchener.

Dear Ontario Senators

As an Ontario citizen, I want to call for ensuring there is no compromising, or risking the appearance of compromising, due process to dealing with the question of expenses.

We must uphold the principle of fairness and rule of law. Failure to do so would be to set a precedent that would diminish our country, and damage the reputation of politicians in general and the Conservative brand in particular. Might it also open the way to lawsuits and related costs arising from any ruling that found fault with such a process?

My position is not based on partisan politics. I am simply a citizen who is taking time to stand up and be counted in defence of the principle of due process based on established facts and unbiased judgments based on those facts. Any punishment without transparent due process seems to me to be tainted; punishment without due process diminishes those who impose it.

As I read a few of these, it's interesting, when you have many issues before you in Parliament, normally you get a stream of emails that you know are all being done by one person. A hundred are coming out at any one time and you're being swamped with them. That is not the case here. It is interesting how all of us — and I'm sure Conservative senators — have received the same emails.

And it's interesting. It's not because I'm a Liberal senator and has nothing to do with that at all, but I have not myself received — maybe others have — one email to say "suspend them without pay for two years." I haven't received one about that. I haven't heard anybody say "do it and do it now," not one.

This is a gentleman from Ottawa. If you want to read emails into the record from others who believe in suspending for two years without pay and benefits, then go ahead. Maybe the same thing holds true if they're suspended without pay and benefits. I have been thinking — and talk about being sideswiped here — that these three senators have staff. If you're a senator in title only, what happens to the staff? Are they gone? What about their benefits? I guess they, too, could be on the street, and personally I don't find that fair.

This is from a gentleman in Ottawa:

I write to you today to respectfully request that you oppose both the motion to suspend Senators Duffy, Wallin and Brazeau, and the subsequent motion to impose closure on debate of the suspension motion.

I do not in any way endorse the behaviours of Senators Duffy, Wallin and Brazeau. Nevertheless, due process and the presumption of innocence are fundamental tenets of the rule of law in any democracy, and must be upheld. Furthermore, it is unjust to punish someone retroactively for acts which were legal at the time.

These were the words of the persons who were sending these emails. "In every other field of endeavour, the appropriate response is to close the loophole and move on. I recognize that the behaviours of Senators Duffy, Wallin and Brazeau brings the Senate into disrepute in the minds of many Canadians and is an embarrassment of all hard-working senators like yourself who strive to serve the public with honour and to the best of their abilities. And, like many Canadians, I will be watching closely to see that the appropriate censure is handed out once due process has been followed and that the rules governing these matters be clarified and enforced going ahead. But I do not want to see these senators railroaded in the interests of expediency. That would only bring the Senate into further disrepute."

I would go on and read a few more, because I think it's important. This one is from Langley, British Columbia. Since I haven't spoken to the people who have written these emails, I

have no idea who they are. I don't think I should mention their names, but I will call them and ask them if they would like that, because they're very concerned.

Senators....

I'm beginning to think that many of you do not have a grasp on the situation. It's not a case of whether you do, or do not, toss "the infamous threesome" out. It's a matter of throwing Democracy out- and that's what Stephen Harper—

These aren't my words.

—and his lackeys are demanding that you do.

I don't look at it from that perspective. I have great respect, and always have, in working with senators on all sides in this chamber.

As for the latest suggestion of a watered-down punishment before the actual investigation has been concluded, this is totally ridiculous too. I think every Senator should be looking behind them; one step out of line and you will join the ranks of the unemployed and tarnished.

Canada is on the cusp of becoming a brain-numbered totalitarian state....

I won't repeat the other part of this letter.

For heaven's sake, do your job instead of kowtowing....

And so on.

Do the job you are appointed to do on behalf of Canadian people.

There are some words in this one even I can't repeat.

I guess you're getting the message of what these Canadians are saying. I, too, sit on the board of internal economy. At the very beginning of this process, I said that at the end of every day, when you look at our country and its values — Senator Hugh Segal talked about John Diefenbaker and the Bill of Rights and we talk about the Charter of Rights — it seems that Progressive Conservatives and like-minded Liberals are always on the same wavelength when it comes to democratic rights. I think that sometimes we lose sight of that fact in this country.

• (1750)

By the way, on John Diefenbaker, you go back to 1962. I go back to 1958, the election campaign. Both Mr. Diefenbaker and Mr. Pearson came to town on the back of the train. I was 12 years old in 1958. Mr. Diefenbaker came down off the back of the train, maybe because I'm so short, I don't know, and my father wanted to introduce me to him. I was a paper boy, and I wanted to put my hand out. I put my hand out, and he walked right by. I was crushed. That was northern New Brunswick, the 1958 campaign.

A week later, Lester Pearson came to town, and it was that same imagery of the bunting, the steam, the whistle stop and the speech. Mr. Pearson came down and he stuck out his hand, and I shook his hand. It took me a long time. I became a Liberal in 2001 or 2003.

In any case, these are the messages from Canadians. They're telling us to be fair and, as has been said here by Senator Plett, to do the right thing. Honourable senators, I hope at the end of all of these debates that we really do the right thing.

The Hon. the Speaker: Question and comments? Continuing debate.

(On motion of Senator Joyal, debate adjourned.)

MOTION TO SUSPEND THE HONOURABLE SENATOR
PAMELA WALLIN—MOTION IN AMENDMENT—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Poirier:

That, notwithstanding any usual practice or provision of the Rules, in order to protect the dignity and reputation of the Senate and public trust and confidence in Parliament, the Senate order a suspension for the Honourable Senator Wallin for sufficient cause, considering her gross negligence in the management of her parliamentary resources, until such time as this order is rescinded pursuant to rule 5-5(i), and such suspension shall have the following conditions:

- (a) Senator Wallin, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional allowance or living allowance;
- (b) Senator Wallin's right to the use of Senate resources, including funds, goods, services, premises, moving and transportation, travel and telecommunication expenses, shall be suspended for the duration of the suspension; and
- (c) Senator Wallin shall not receive any other benefit from the Senate during the duration of the suspension;

That, notwithstanding the provisions of this suspension motion, the Senate confirm that the Standing Committee on Internal Economy, Budgets and Administration retains the authority, as it considers appropriate, to take any action pertaining to the management of Senator Wallin's office and personnel for the duration of the suspension;

And on the motion of the Honourable Senator Cowan, seconded by the Honourable Senator Fraser:

That this motion be referred to our Standing Committee on Rules, Procedures and the Rights of Parliament for consideration and report;

That Senator Wallin be invited to appear; and in light of the public interest in this matter, pursuant to rule 14-7(2), proceedings be televised;

And on the motion in amendment of the Honourable Senator Fraser, seconded by the Honourable Senator Munson:

That the motion be amended by replacing the words "Rules, Procedures and the Rights of Parliament" with the words "Internal Economy, Budgets and Administration".

The Hon. the Speaker: On Motion No. 3, Senator Comeau has completed his intervention.

Hon. Hugh Segal: Question.

The Hon. the Speaker: Yes, but the senator who spoke —

Senator Segal: I was just asking if Senator Comeau would accept a question.

The Hon. the Speaker: He would but he's not here.

Hon. Joan Fraser (Deputy Leader of the Opposition): Take the adjournment.

The Hon. the Speaker: So I again ask the question, is there further debate on Order No. 3?

(On motion of Senator Martin, debate adjourned.)

MOTION TO SUSPEND THE HONOURABLE SENATOR
MICHAEL DUFFY—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Poirier:

That, notwithstanding any usual practice or provision of the Rules, in order to protect the dignity and reputation of the Senate and public trust and confidence in Parliament, the Senate order a suspension for the Honourable Senator Duffy for sufficient cause, considering his gross negligence in the management of his parliamentary resources, until such time as this order is rescinded pursuant to rule 5-5(i), and such suspension shall have the following conditions:

- (a) Senator Duffy, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional allowance or living allowance;
- (b) Senator Duffy's right to the use of Senate resources, including funds, goods, services, premises, moving and transportation, travel and telecommunication expenses, shall be suspended for the duration of the suspension; and
- (c) Senator Duffy shall not receive any other benefit from the Senate during the duration of the suspension;

That, notwithstanding the provisions of this suspension motion, the Senate confirm that the Standing Committee on Internal Economy, Budgets and Administration retains the

authority, as it considers appropriate, to take any action pertaining to the management of Senator Duffy's office and personnel for the duration of the suspension.

Hon. James S. Cowan (Leader of the Opposition): Colleagues, I rise to try for the third time to persuade you that the responsible action for us to take here is to refer these motions to a committee.

Senator Mitchell: Never give up!

Senator Cowan: Senator Carignan has argued that we can accomplish everything here in this chamber by debate. Debate is very important, colleagues, but our debating amongst ourselves is not the same as adducing evidence. There are no witnesses before us giving evidence as to what happened. There's no opportunity for us to put questions to witnesses, to test their knowledge and, where relevant, their recollection or to assess their credibility.

Senator Carignan has challenged the named senators to ask him questions. With respect, that's not the same thing either. Senator Carignan, to my knowledge, has never been identified as a participant in any of the discussions or meetings that we've heard took place and which reportedly related to what we are now considering sanctioning. Asking questions of him cannot possibly suffice for us or for the senators named in these motions.

As I said earlier, people have been named who are not members of this chamber and who have, therefore, not been afforded any opportunity to present their version of the facts, whether to support or rebut any allegations that have been made concerning them.

Colleagues, let me repeat: Very serious allegations have been raised that all of us on both sides of this chamber should be insisting be explored rather than letting the government try to bury them, deep-six them, in what can only be concluded is a desperate attempt at a cover-up. Otherwise, why would we not follow our normal practice, which is to refer important matters to one of our committees where they can be carefully examined, where witnesses can be heard and, afterwards, where a recommendation is made to all of us?

Colleagues, as I say, we've heard serious allegations during the course of this debate.

An allegation has been made several times by Senator Duffy and his lawyer that Senator Duffy was threatened by representatives of the government with expulsion from this chamber. Senator LeBreton rose last week with great indignation to refute what Senator Duffy had said.

Senator LeBreton: Rightly so!

Senator Cowan: She told this chamber that his allegations were not true.

Senator LeBreton: Right.

Senator Cowan: False.

Senator LeBreton: Right.

Senator Cowan: Preposterous.

Senator LeBreton: Right.

Senator Cowan: And a whopper.

We didn't rehearse this.

She herself went on to say what she told Senator Duffy, as she urged him to resign from caucus:

"Mike," I said, "this is the only option that can ensure your future livelihood."

Colleagues, why would resignation from caucus be the only way that Senator Duffy could protect his livelihood? If what Senator LeBreton told him was not a threat of expulsion from the Senate, what was it?

There are factual issues and there are legal issues, all of which can only be explored in committee. If members of this chamber are determined that these be addressed in this chamber, then let's go into Committee of the Whole, but we do need a process by which witnesses can be called and questioned.

I ask again: Why is the government prepared to spend hours, days, debating these motions, debating why they believe these motions should not be sent to committee, but is not prepared to spend those same hours actually examining those issues in committee, as we do with virtually every other matter that comes before us?

There was a tweet from a journalist during Senator Carignan's first very long speech on these motions asking — facetiously, we thought — why the government was filibustering its own motion. I wonder now if this joke didn't have a sort of unrecognized truth at its core, that the government is trying to wear us all down, to keep us here until midnight, speaking at length without addressing the real issues, in their determination to prevent the real issues from being aired and addressed. Now they've served us with notice of their plan to invoke what is, in effect, closure, saying, "Well, after all these hours, enough has been said. Let's proceed to a vote."

Unfortunately, colleagues, we really are very little ahead of where we started, and so much remains to be considered. This debate has raised only more questions, not only for us but for all Canadians, many of whom, as you know and as you just heard from Senator Munson, are following our proceedings very closely. Sometimes we complain that nobody pays any attention to what's going on in this chamber. Well, I think we all know that Canadians from coast to coast to coast are paying a great deal of attention to what is going on in this chamber.

I continue to believe that the best course for us is to refer these three motions to a special committee where our accused colleagues will have an opportunity to defend themselves and to answer our questions, and where we will be able to seek guidance from constitutional and parliamentary authorities to ensure that we have embarked on a proper path, and from legal experts to ensure that we do nothing that could prejudice the ongoing police investigations.

As I pointed out before, this would follow as closely as possible those precedents that have been established for difficult cases such as these, both in the House of Lords and in our chamber, the very cases relied upon by Senator Carignan in his presentations.

A reference to a special committee for all three motions can be done with leave at any time during our debate, but if colleagues do not wish to create a special committee and would prefer to utilize a regular standing committee, I would be fine with that.

• (1800)

Once again, I will remind my honourable colleagues that the amendment which I proposed with respect to the motion regarding Senator Brazeau was to refer that motion to our Standing Committee on Rules, Procedures and the Rights of Parliament.

The Hon. the Speaker: It being six o'clock, should we see the clock?

Some Hon. Senators: No.

The Hon. the Speaker: Is there unanimous consent that we don't see the clock?

Hon. Senators: Agreed.

Senator Cools: No, I said to see the clock.

The Hon. the Speaker: Honourable senators, it requires unanimous consent to not follow the rules, and I just remind honourable senators it's rule 3-3(1) that says that at six o'clock I'm obliged to leave the chair until eight o'clock when we resume, unless there is unanimous consent to not see the clock.

I will ask again for clarity, is it agreed, honourable senators, that we not see the clock?

Some Hon. Senators: Agreed.

Senator Cools: I said no.

The Hon. the Speaker: There is not unanimous consent, so I will leave the chair to resume at eight o'clock.

(The sitting of the Senate was suspended.)

• (2000)

(The sitting of the Senate was resumed.)

Senator Cowan: Thank you, Mr. Speaker. I have two alternatives that I am sort of weighing in my mind. One would be to start at the beginning and, also, as it is late, to review some of my previous interventions in the debate, and I thought I would give an opportunity to perhaps give a précis of Senator Carignan's brief interventions. That is on the one side. On the other side, I thought I might just pick up where I left off at 6 o'clock and finish off. I'm sorry to disappoint the house, but, for my own personal convenience, to say nothing of the rest of you, I might do that.

As I was saying, once again, I'll remind honourable colleagues that the amendment I proposed with respect to the motion regarding Senator Brazeau was to refer that motion to our Standing Committee on Rules, Procedures and Rights of Parliament. As said earlier when I moved my amendment with respect to the motion on Senator Wallin, I said I had listened with care to the proposal put forward by my colleague and deputy leader Senator Fraser and her alternate proposal, which was to send it to our Internal Economy Committee. That made good sense and, as she pointed out, it was not that one was better than the other, but simply that we wanted to lay before the house a variety of proposals or options that the house could consider.

Again, as I said earlier, I still believe that the Senate should have the choice of more than one option. Consequently, I will be proposing the same motion that I did with respect to the Senator Brazeau, with the expectation that it, too, will be amended to provide for possible reference to our Internal Economy Committee.

SUBSIDIARY MOTION

Hon. James S. Cowan (Leader of the Opposition): Accordingly, I move, as a subsidiary motion under Rule 5-7(b) and Rule 6-8(b):

That this motion be referred to our Standing Committee on Rules, Procedures and the Rights of Parliament, when and if the committee is formed, for consideration and report;

That Senator Duffy be invited to appear; and in light of the public interest in this matter, pursuant to Rule 14-7(2), proceedings be televised.

(On motion of Senator Fraser, debate adjourned.)

(The Senate adjourned until tomorrow at 2 p.m.)

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