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(HANSARD)

Monday, November 4, 2013

The Honourable NOËL A. KINSELLA
Speaker

This issue contains the latest listing of Senators,
Officers of the Senate and the Ministry.

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THE SENATE

Monday, November 4, 2013

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

Prayers.

[Translation]

SENATORS' STATEMENTS

CANADIAN ASSOCIATION OF IMMERSION TEACHERS

Hon. Claudette Tardif: Honourable colleagues, on October 25, the national conference of the Canadian Association of Immersion Teachers (CAIT) was held for the first time in Calgary under the inspirational theme *L'immersion, plein d'esprit*.

I would like to congratulate Philippe Le Dorze, president of the Canadian Association of Immersion Teachers; Chantal Bourbonnais, executive director; and Lesley Doell, conference chair, and her team for successfully bringing together over 700 participants — most of whom were French immersion teachers — for the conference.

CAIT is an organization with a unique mandate, which is to improve the quality of the education and training of its members.

In addition, this association plays a very important role, not only for the educators involved in the teaching of French, but also for our entire society. Through their dedication and commitment, these professionals make it possible for Canada to continue pursuing its ideal, which is to be an officially bilingual country, and enable our young people to enrich their lives by learning a second language.

Honourable colleagues, it is an inspiring challenge to emphasize the importance of learning a new language, because we all know that this has many valuable impacts on our country.

Second-language education strengthens the foundation of linguistic duality and helps maintain it as a Canadian value. Canada's linguistic duality and diversity are two elements that make Canadian society unique and have helped create a society that recognizes and respects differences.

Immersion teachers can be proud of their contribution to this great social vision. Today, there are about 350,000 young Canadians registered in French immersion programs.

I would like to commend all the teachers, administrators, academic advisers and researchers who work with such dedication to promote bilingualism in our country. Because of their

determination and expertise, we have high-quality French immersion programs that have an excellent reputation both in Canada and abroad.

[English]

HOPE BLOOMS

Hon. Terry M. Mercer: Honourable senators, encouraging children to be active in their communities is nothing new. As parents, we do it all the time. But when a local dietician in Halifax saw an opportunity to make the North End a better place, she grabbed it, and now it has led to some pretty amazing opportunities.

Jessie Jollymore, the dietician at Halifax's North End Community Health Centre, wanted to improve the food that local residents were eating. So she organized in the neighbourhood and started urban farming where children grow their own food and take it home to prepare better meals. What is really interesting is what happened next.

They started making salad dressings. If you feel like fresh basil pesto, or perhaps maple sage balsamic, orange rosemary Dijon, or fire-roasted oregano dressing for your salad, you can purchase it any time at the Farmers' Market in the Halifax Seaport. You can indeed have a bottle of your own.

The project called Hope Blooms currently involves 43 children ages 7 to 15, and a 3,600-square-foot garden and greenhouse. This year, they are expected to fill 6,000 bottles.

Honourable senators, local restaurants are purchasing the dressing, along with the many tourists who are visiting the seaport, and, of course, many Haligonians as well.

It was so popular that suggestions were made to pitch the idea to a popular television program that I'm sure you are all aware of — *Dragons' Den*. And, indeed, they appeared on the show, the results of which will be broadcast on CBC on November 13. We all wait with anticipation to see if they got a deal.

From news reports, it appears that the Dragons were impressed. Even Jim Trelying, the founder of Boston Pizza, visited Halifax this summer, after the taping, to visit the Hope Blooms project.

Honourable senators, the sheer power of community is astounding. Growing up in North End Halifax, we had a sense of that community and had it instilled in us at a young age.

Hope Blooms is a project that strikes at the very heart of community with the betterment of children and their families.

I congratulate Halifax's Hope Blooms project and the North End Community Garden, the North End Community Health Centre, and the volunteers, especially the children, for their hard

work and dedication on such a worthwhile project. We wish you good luck on November 13, and we will all be watching.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the Governor General's gallery of Mr. Dwane Drost of Fredericton, New Brunswick, who wrote the song "Thank a Vet" and performed it at the musical interlude of this morning's remembrance ceremony that launched Veterans Week. Mr. Drost is accompanied by his wife, Gail Drost, as well as Mr. Larry Gullison and Mr. Peter Hiltz, also from Fredericton, New Brunswick, one of the great capitals of this country.

Welcome to the Senate of Canada.

Hon. Senators: Hear, hear.

THE LATE ALEXANDER COLVILLE, P.C., C.C., O.N.S.

Hon. Elizabeth Hubley: Honourable senators, I rise today to pay tribute to an iconic artist, Alex Colville. Alex was born in Toronto on August 24, 1920, and he passed away at his home in Wolfville, Nova Scotia, at the age of 92, on July 16.

• (1410)

He moved with his family to Nova Scotia in 1929. In 1942, he graduated with a Bachelor of Fine Arts from Mount Allison University and went on to become a renowned painter, engraver, sketch artist and muralist.

He produced many fine pieces of art throughout his life but is best known for painting the simple, tranquil moments of everyday life.

Some of his best-known works of art are *Horse and Train*, *House in Field* and, perhaps the best known, *To Prince Edward Island*.

Over the years, Alex's fame grew and he received many honours, including many honorary degrees from universities and colleges throughout Canada. He was named a Companion of the Order of Canada in 1982, and he won the Governor General's Award in Visual and Media Arts in 2003.

His many works were exhibited throughout Canada and the world, including in the Tate gallery in London, England, and the Beijing Exhibition Centre. I'm certain that his legacy will continue to play a major role in the art world for many years to come.

[Translation]

THE HONOURABLE DENIS CODERRE, P.C.

CONGRATULATIONS ON ELECTION AS MAYOR OF MONTREAL

Hon. Céline Hervieux-Payette: Honourable senators, today, I would like to recognize a great Canadian, a member of the House of Commons from 1997 to 2013. I am talking about the new Mayor of Montreal, the Honourable Denis Coderre.

For those from the other provinces who do not know him, Denis Coderre has a bachelor's degree in political science from the Université de Montréal and an executive MBA from the University of Ottawa. He served as the Secretary of State for Amateur Sport, a position that I also held in the past. In that capacity he worked on controlling the use of drugs in sports. He also fought to bring the World Anti-Doping Agency to Montreal. Today, that agency is doing remarkable work for athletes.

In 2002, Mr. Coderre became the Minister of Citizenship and Immigration. He also did an excellent job in that position.

In 2007, he was named official opposition critic for national defence under the new Liberal Party leader at the time, the Honourable Stéphane Dion.

Mr. Coderre has been involved in a number of portfolios. Not so long ago, we joined forces to have the Champlain Bridge in Montreal repaired before one of us fell in the river.

Mr. Coderre also made a promise to have someone who is independent of the city council make sure that the competitive bidding process is conducted properly in order to restore fiscal peace to Montreal. I believe that promise will be fulfilled in the near future.

Denis Coderre can restore Montreal's reputation. I would like to wish him good luck in putting the City of Montreal back on track and in getting rid of the orange traffic cones we see on every corner so that we can move freely through our city.

MR. RÉGIS LABEAUME

CONGRATULATIONS ON ELECTION AS MAYOR OF QUEBEC CITY

Hon. Ghislain Maltais: Honourable senators, I would like to draw your attention to the resounding victory of Quebec City's mayor, who won 75 per cent of the popular vote. That level of support is impressive. He received a strong, clear mandate to do what needs to be done in most of Quebec's major centres, and that is work on pension reform.

The Mayor of Quebec City kept his 2009 promise and built an arena for the Nordiques' return. The Mayor of Quebec City was the first to talk firmly with the provincial governments about overhauling municipal employee pensions, which have become too heavy a load for taxpayers to bear.

MR. YVES LÉVESQUE

CONGRATULATIONS ON ELECTION AS MAYOR OF TROIS-RIVIÈRES

Hon. Ghislain Maltais: Honourable senators, in honour of my senatorial designation, I would also like to congratulate Yves Lévesque, who won a fourth mandate as Mayor of Trois-Rivières.

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TABLING OF DOCUMENTS

The Hon. the Speaker: Honourable senators, pursuant to the order of reference adopted on Monday, October 28, 2013, I have the honour to table the documents from the meetings of the Standing Committee on Internal Economy, Budgets and Administration held on May 8 and 9, 2013, during the First Session of the Forty-first Parliament.

DISABILITY TAX CREDIT PROMOTERS RESTRICTIONS BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-462, An Act restricting the fees charged by promoters of the disability tax credit and making consequential amendments to the Tax Court of Canada Act.

(Bill read first time.)

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

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

QUESTION PERIOD

PUBLIC SAFETY

CORRECTIONAL SERVICE—PENSIONS AND BUDGETS

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate and has to do with a topic we discussed fairly often in a previous life at the Legal Affairs Committee.

[*English*]

It has to do with the effects of this government's tough-on-crime policies. According to Correctional Service Canada, inmate assaults — that is, assaults by the folks who are shut up in prison — increased 33 per cent over four years, ending in the year 2010-11. I don't know how many experts have explain

over and over again that the growing population of our prisons and the reduction in the amount of hope that the average prisoner has for parole, programming, help and rehabilitation, the reduction in all those things, are creating an increasingly unhealthy climate in our prisons.

Is this government prepared, instead of slashing the budgets of the Correctional Service, at least to increase those budgets so that the increased number of prisoners can receive the housing and the programming they need?

[*Translation*]

Hon. Claude Carignan (Leader of the Government): Honourable senators, we already discussed this in a previous life, when I was a member of the Standing Senate Committee on Legal and Constitutional Affairs, and our objective has not changed. The purpose of the tough-on-crime agenda is to ensure that dangerous offenders and reoffenders stay behind bars, where they cannot hurt anyone. The increase in the number of inmates is only one-quarter of the increase projected by Correctional Service Canada. It is much lower than the projections made by the opposition, which we discussed at the Standing Committee on Legal and Constitutional Affairs.

Budget 2012 was clear. We have not built any new prisons, and we have no intention of building any. We are closing outdated prisons and replacing them — within existing budgets — with better cells in order to make our front-line officers safer.

• (1420)

As for double-bunking, this is a totally normal, well-established practice in many Western countries.

Correctional Service Canada provides prisoners with assistance and support — including spiritual advisers and chaplains — in order to ensure that they receive the care they are entitled to.

[*English*]

Senator Fraser: Honourable senators, I hardly know where to begin. They've cut the chaplain services; they've cut the number of psychologists; and they've skyrocketed the number of people who are double-bunked, even though double-bunking is contrary to our commitments to the United Nations under international law. Indeed, they've rewritten Correctional Service's rules and regulations so that double-bunking, which used to be considered an extraordinary and extreme procedure and still should be, no longer is considered extraordinary. It's considered almost normal.

Okay, this government doesn't like people who commit crimes. Most of us don't. However, this government pretends to be all in favour of helping victims and protecting Canadian citizens. Prison guards are Canadian citizens, and the prison guards have been saying with increasing insistence for quite some time now that they face greatly increased danger on the job because of the tensions that are created by these increasingly inadequate conditions in our prison system. You don't have to believe me, but why don't you believe the prison guards?

[*Translation*]

Senator Carignan: We are very concerned about the issue of prisons. That is why we are closing those that are outdated and replacing them, within existing budgets, with better cells, in order to make our front-line officers safer.

You talked about spiritual advisers and chaplains. I would remind you that there are over 2,500 people who provide spiritual services to prisoners, sometimes free of charge. Prisoners receive constant, effective support.

Hon. Céline Hervieux-Payette: I have a supplementary question. Despite all the statistics that are seemingly pro-government, I would like to point out that, among all Western, democratic countries, Canada has the distinction of being ranked second in terms of incarceration rates. I do not know if that is something to be proud of. Personally, I believe that prevention is a better solution, and we have not seen much legislation or investment in that regard.

I listened to the speech delivered by your leader on the weekend. He tried to reassure Canadians by announcing that people who are given life sentences will be imprisoned for life. Do you realize that, in doing so, you are putting everyone inside those walls in danger, that someone who has lost all hope is a ticking time bomb? Will you have a closer look at these issues, consult with experts and realize that this practice is completely immoral in democratic countries?

Senator Carignan: First, I disagree with your statistics. I invite you to check the global statistics on incarceration per 1,000 inhabitants. They are completely different from what you are reporting.

If I understood your question, you are asking if we are aware that by imprisoning a dangerous person we are putting the prison population at risk. If I understood your question, this means that you would prefer the person to remain on the outside and pose a threat to the rest of the population.

Senator Hervieux-Payette: The Leader of the Government and I are speaking the same language, and he should understand what I am saying. I was talking about Western countries, not every country with a seat at the United Nations. We are ranked second. You can check the United Nations' statistics.

Do you realize that a person who enters prison at age 25 and is sentenced to stay there until his dying day has nothing to lose and will use every means possible to escape and commit other offences? There will not be enough cells to isolate these people from the other prisoners. Not only will the prison population not be protected, but the general population will also be put at risk.

My question is simple. On what basis are you removing all hope from a person by telling him that he will spend the rest of his days in prison with no chance of release?

Senator Carignan: I understand that your position is soft on crime, but that is not our position. We believe that that is not the approach we should take and that people who commit crimes should suffer the consequences, especially reoffenders. We expect them to remain behind bars, where they cannot hurt anyone.

[*English*]

VETERANS AFFAIRS

LENGTH OF SERVICE—PENSIONS AND BENEFITS

Hon. Jane Cordy: Honourable senators, it was recently reported that many of our injured Armed Forces personnel are being discharged before they can qualify for an indexed pension. Ten years of service is required before a member can qualify for an indexed pension in the Canadian military.

These are men and women who have been hurt in the line of duty, protecting Canadians and those less fortunate around the world. Therefore I ask: Why did this Conservative government break their promise, made in June 2013, that wounded military men and women could serve as long as they want in the Canadian military?

Some Hon. Senators: Hear, hear.

Senator Mercer: Good question! Bandyng the troops.

[*Translation*]

Hon. Claude Carignan (Leader of the Government): As promised, we are honouring the veterans' benefits that were in Budget 2012. We are honouring our commitment to serve veterans as well and as quickly as possible. We have also implemented a program that is greatly appreciated by veterans: the Hire a Veteran Program. We believe that these types of practical measures can best help veterans reintegrate into active society when they return home from a mission.

[*English*]

Senator Cordy: You have not kept your commitment made in June 2013 that Canadian men and women who were hurt in battle, either physically or with post-traumatic stress disorder, could stay in the military as long as they could. That commitment has not been kept. We know that men and women are being asked to leave the military before their 10 years have been served so that they are not eligible for a pension.

The practice of early medical discharge in the case of Corporal Glen Kirkland was stopped last year when then Defence Minister Peter MacKay intervened, but this was a special case made for someone only after his case was made public.

Corporal Kirkland has since voluntarily resigned when he discovered that this special treatment was reserved only for him and not extended to his fellow injured servicemen and women. At the time Corporal Kirkland said:

I joined as a member of a team, as a family.... So, when I was offered an opportunity when no one else was, it just goes against everything I joined for.

We now find that Corporal David Hawkins, who is one year short of being eligible for an indexed pension, has been released from the military because his post-traumatic stress disorder means that he is not able to deploy overseas.

• (1430)

Corporal Hawkins is not eligible to receive a military pension.

An Hon. Senator: Shame!

Senator Cordy: That is shameful. These are the men and women who have gone to the front line for us, and now we're letting them go with one year remaining before they are eligible to collect a pension.

Can you tell me why this Harper government is treating our veterans, those who have gone to the front lines for Canadians, in such a callous way?

[Translation]

Senator Carignan: Senator Cordy, I must once again correct your statements regarding how veterans are treated. Our government is among those that pay the most attention to their veterans. With respect to injured soldiers, need I remind you that, before they are released, Canadian Forces members work on a transition plan with the army?

Soldiers are only released when the time is right for them and their families and when they are ready to enter the private sector. Our government promised to provide the best possible health care for members of the Canadian Armed Forces. That is why we increased investments in mental health services and doubled the number of mental health professionals in the Armed Forces. Compared to our NATO allies, the Canadian Forces have the highest ratio of mental health professionals to soldiers.

We have invested in 24 Integrated Personnel Support Centres across Canada in order to bring together important services offered by Veterans Affairs Canada and the Armed Forces. We have invested millions of dollars in infrastructure and new technology in order to better support and care for sick and injured soldiers. We have made great progress in treating military personnel suffering from mental health problems caused by their deployment. The treatment of post-traumatic stress disorder is based on best practices, in particular early detection and evidence-based health care. The Armed Forces have a complete pre- and post-deployment program to help soldiers deal with the challenges of a deployment.

[English]

Senator Cordy: Good speaking points, senator, but I'm wondering: Why was Corporal Hawkins dismissed after nine years in the military because he has post-traumatic stress disorder and therefore he cannot be deployed overseas, so he was let go; will Corporal Hawkins receive an indexed pension?

Some Hon. Senators: Hear, hear!

[Translation]

Senator Carignan: I am not sure whether that was a question, but I can reaffirm our government's commitment to the soldiers who fought for and defended Canadian values around the world.

[Senator Cordy]

I would reiterate that our government is committed to ensuring that members of the Canadian Armed Forces have access to the best health care possible.

[English]

Senator Cordy: You're absolutely right. These men and women have defended Canadian values around the world, so I think that we owe them more than dismissing them from the military after nine years, with one year remaining before they are eligible to collect a pension.

Senators and members of Parliament receive a pension after six years. Should our military not at least be allowed to collect a pension? Why would this government kick military members out who have served for nine years and who cannot be deployed because they were injured while serving Canadians?

[Translation]

Senator Carignan: As I explained, Senator Cordy, before being released, members of the Armed Forces work with the military on a transition plan. Soldiers are released only when the time is right both for them and for their families and they are ready to move on to the private sector.

[English]

Hon. Terry M. Mercer: Senator Carignan talked about these people fighting for Canadian values. Well, some of the Canadian values that they were fighting for are a compassionate, caring, honest government that would take care of their well-being.

A good government in this situation, Mr. Speaker, would not be looking to kick these men and women out of the Armed Forces. They would be looking at the number of men and women who are affected by all of these injuries, both mental and physical, and saying, "Here's a soldier who only has two years left before getting a pension. Let's find a two-year opportunity for that person in the military so they can then qualify and perhaps retire after." But no, not this government! This government scurries around and finds people they can kick out, whether it be in the public service or, in this case, more importantly, the military, so they can save a few dollars.

Shame on you, senator, and shame on your government for doing this to Canadian soldiers!

Some Hon. Senators: Hear, hear!

[Translation]

Senator Carignan: I would rather not repeat yet again the investments made and the care that is given to members of the military. I will just reiterate that, compared to our NATO allies, the Canadian Forces have the highest ratio of mental health care professionals to soldiers. I know that these are concrete steps that our government took for veterans and released soldiers. I know you do not like to hear about the good deeds or good news and you want to attack over and over with leading questions, but facts are facts, and the reality is what it is, whether you like it or not.

[English]

LAST POST FUND

Hon. Wilfred P. Moore: My question is also for the Leader of the Government in the Senate.

This government has a history of placing symbolism over substance, and the government has been under much criticism for its lack of support for veterans and their families for its neglect of the Last Post Fund.

Since your government took office, leader, 67 per cent of the applications for burial assistance for veterans have been rejected. We also know that because of intense pressure from the vets and the public, your government was forced to take action to adjust this problem and, at the last minute, added \$65 million to allegedly provide a solution.

What has actually happened here is that the rules for eligibility have not been changed and those veterans who did not qualify before still do not qualify. If they earn \$1,000 a month, they are disqualified from applying for and receiving assistance under the Last Post Fund. This is supposed to be a means test that's reasonable, not a meanie test.

You can announce any sum of money — you can announce billions of dollars — but if you know that you're not going to spend it, and that has been the pattern that has been happening here, why does your government continue to believe that announcements are more important than substantial policy initiatives that would actually help Canada's vets and their families?

[Translation]

Hon. Claude Carignan (Leader of the Government): Veterans have access to various kinds of programs. You talked about the Last Post Fund and the Veterans Independence Program, which now provide single lump sum payments for yard work and housekeeping, for example, under the Veterans Independence program. Some 100,000 veterans, their survivors and their primary caregivers will no longer have to fill out the tedious paperwork. We trust veterans, and thanks to these changes, we no longer have to pay, only to reimburse them later. Various other funds have also been improved, particularly regarding veterans' funeral and burial expenses.

As you said, Economic Action Plan 2013 doubles the financial support paid to families of veterans, while cutting out the tedious paperwork. The Public Service Employment Act specifies that the Public Service Commission can designate groups for priority access to make it easier to hire veterans who have been medically released.

• (1440)

[English]

Senator Moore: You might recall, leader, that on February 7 of this year I asked your predecessor, the Honourable Senator LeBreton, about changing the regulations so that more veterans

could qualify for help under the Last Post Fund. At that time, she said: "Veterans Affairs" — meaning the department — "are always reviewing and looking at these programs with a view to assisting our veterans. Obviously, this will continue."

Well, let me suggest to you that has not happened. Only \$18.4 million of the \$65 million budgeted for the Last Post Fund will actually be handed out to Canada's veterans, according to a report released this morning by the Parliamentary Budget Officer. The vast majority of veterans continue to be rejected — as I mentioned, 67 per cent. This is coupled with the fact that our veterans are dying; approximately 2,000 vets a month who served our country are passing away. With no change to the criteria to access this fund, the government knows full well that the \$65 million budgeted for will not be spent.

So my question is this: Why does your government continue to treat our vets' real human problems as nothing more than your government's public relations problems?

[Translation]

Senator Carignan: Senator Moore, we are aware of that report, but I would like to draw your attention to the fact that it also says that 57 per cent of applicants will receive the maximum amount under the program. Our government continues to work with stakeholders in order to ensure that funeral services programs continue to meet the needs of veterans and their families.

[English]

Senator Moore: I have a supplementary question on this issue. Prime Minister Harper, on Saturday night, said:

... these are great days to be Canadian.

In the next few years, we will mark the great anniversaries of Canada's defence of freedom... from Queenston Heights, and Vimy Ridge, to Juno Beach and Kapyong.

Our 12-year mission in Afghanistan will soon be complete. Our troops are coming home, with honour!

He also said that he "couldn't care less" what his opponents think about his policies, and that's what's happening here. He mentions Canada's vets and the battles they fought, the sacrifices they made, as a means of making his own government look good; but he doesn't mention that, for many of them, their battles are not over. We've heard this from Senator Cordy today. They will be battling Mr. Harper's government for the few dollars for a decent burial.

So I want to know: Why is our Prime Minister so much more inclined to hide behind, rather than stand behind, Canada's vets?

[Translation]

Senator Carignan: I like when you quote Prime Minister Harper. It is music to my ears. I hope that you heard the fantastic speech that he gave to party members at the convention. He was given 15 standing ovations. It was a speech full of vision, energy and empathy.

The Prime Minister conveyed several messages in that speech. I urge you to listen to it. If you did not see it on television, we can send you a transcript. You should pay close attention to the Prime Minister's call to veterans and the importance of paying special attention to them. That is what this government has been doing and what it will focus on in the coming years.

[English]

Senator Moore: Don't get carried away, senators.

Supplementary: Mr. Bill Mont is the owner of Pleasant Hill Cemetery in Lower Sackville, just outside Halifax. This past March, he announced that he is offering a burial plot to vets for \$500 rather than the usual \$1,500. So here is a private citizen voluntarily doing what our government should be doing to help our vets. I would think that a normal person would be quite embarrassed by that, especially if you are in an office of some authority, you could do something about it, and it's not being done.

So I want to know: When will your government bring in the changes to the regulations so that more vets will qualify for assistance under the Last Post Fund?

[Translation]

Senator Carignan: In Economic Action Plan 2013, we doubled the financial support to families of veterans in this regard while — as I mentioned — getting rid of repetitive paperwork. All of the changes make it possible to provide close to \$10,000 to the family of a veteran during this difficult time.

The Funeral Service Association of Canada has said that the federal government's measures have made it possible for veterans to have the funerals they deserve.

[English]

Hon. Percy E. Downe: I'm just curious as to what part of the question Senator Moore asked the Leader of the Government doesn't understand. The government increased the funds, but still 67 per cent of veterans who apply for burial are refused. Now former members of the fund are trying to raise money privately. So far, they've spent \$93,000 to bury 26 veterans who were turned down by the fund.

Here's one of the things they say in their fundraising letters, and members of the tough-on-crime government will be interested in this. They say that Corrections Canada pays for the funeral and grave markers of dead inmates. "A veteran is not a convict and deserves our gratitude," writes the chair of the committee.

So why is the government refusing to pay all these veterans who are low-income? The government has the money but refuses to spend it.

Why is that?

[Translation]

Senator Carignan: Senator, 57 per cent of applicants will receive the maximum benefits available through the program. Our government will continue to work with stakeholders to

[Senator Carignan]

ensure that funeral service programs continue to meet the needs of veterans and their loved ones. I would like to reiterate that the Funeral Service Association of Canada has said that the federal government's measures allow veterans to have the kind of funeral they deserve.

[English]

Senator Downe: Sixty-seven per cent of low-income veterans who apply are turned down. That's the point. They're out raising money from private citizens to help pay veterans who served for Canada.

Why is it, as they say in the fundraising letters, the government is prepared to bury convicts but not veterans?

[Translation]

Senator Carignan: I said that 57 per cent of applicants will receive the maximum benefits available through the program.

[English]

Senator Downe: Maybe you can check your figures on that.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Yonah Martin (Deputy Leader of the Government): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that, as we proceed with Government Business, the Senate will address the items in the following order: Motion No. 6, followed by Motion No. 5, followed by all remaining items in the order that they appear on the Order Paper.

[Translation]

THE SENATE

MOTION TO SUSPEND THE HONOURABLE SENATOR PATRICK BRAZEAU, THE HONOURABLE SENATOR MICHAEL DUFFY AND THE HONOURABLE SENATOR PAMELA WALLIN AND CONTINUE TO PROVIDE LIFE, MEDICAL AND DENTAL INSURANCE COVERAGE—ALLOTMENT OF TIME—
MOTION ADOPTED

Hon. Yonah Martin (Deputy Leader of the Government), pursuant to notice of October 31, 2013, moved:

That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for the consideration of motion No. 5 under "Government Business", concerning the suspensions of Senators Brazeau, Duffy and Wallin.

She said: Honourable senators, today we are discussing whether we should impose a time limit on debate on the government motion to suspend Senators Brazeau, Duffy and Wallin, without pay, until the end of the session, for gross negligence in managing their office budgets.

[English]

On October 22, the Honourable Leader of the Government in the Senate, Senator Carignan, presented three motions. We have since debated these motions at length. We have not heard any new argument from our Liberal colleagues for at least a week. The debate has been quite repetitive.

• (1450)

We decided to put forward a non-government motion, thinking that our colleagues opposite would seize the opportunity and use this debate to start a non-partisan discussion on the future of this institution and how we can make it more accountable to taxpaying Canadians.

Instead, we have seen opposition delay tactics bogging down the debates, muddying the real issue and, in doing so, they forgot that it is the entire institution that is being dragged through the mud.

[Translation]

Honourable senators, like the vast majority of Canadians, I am extremely disappointed in the direction this issue has taken. Canadians who have been following this saga for a year now want to see results. Last week, an Ipsos poll revealed that no less than 73 per cent of Canadians supported suspending the three senators in question without pay.

[English]

I think the message is clear: We have to act and we have to act now. I can't think of a better time than on this day, as we debate this time allocation to move into the main motion, as we begin Veterans' Week, that we think of where we have come from and the opportunities and the privileges that we have — and all honourable senators have — in what we can do to better serve Canadians.

And so, as we wear our poppies, think about this year, in recognizing the Year of the Korean War Veteran, the debates that allowed us to all unanimously move forward on the private member's bill, which we passed in a timely manner, to allow our veterans to get their due respect, long deserved and overdue.

This is why we have decided to go forward and use the provisions of the rules on time allocation to make sure that we can complete this debate, take a decision on the fate of the three senators in question and finally return to what this institution is supposed to do: studying and debating legislation and looking at other matters that are important to all taxpaying Canadians.

The Hon. the Speaker: Questions and comments.

Hon. Jane Cordy: May I ask a question? I'm quite surprised that you would bring in the comments about our veterans. Do you really believe that our veterans fought for time allocation?

Senator Martin: Senator Cordy, and all honourable senators, I mentioned our veterans because, on this very day, we begin Veterans' Week. It is all the more evident for all of us to do what is responsible and is expected of us as a chamber. Having gone through the debate, as I described, in essence it seemed circular at times. It was confusing even to the most experienced journalist because it did go into that circular motion where all of us, at times, were confused as to which motion we were speaking to.

Having gone through that process, we have put forward a government motion. It is time for us to look at the question that is posed in the motion and for all of us to bring this debate to a reasonable closure. And on this day, I find it significant in that I know — and I'm not saying those words with any disrespect but with absolute respect to the fact that it is time to bring this to a closure.

Senator Cordy: Indeed it was confusing, and no one on our side would take issue with your comments about that. It appears on many occasions that the other side doesn't really know what's coming next.

My father fought in World War II. I quite honestly find it offensive that you would stand in this chamber today, a week before Remembrance Day, and you would say that we should be thinking about our veterans and what our veterans fought for. My father did not fight for time allocation.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Dennis Dawson: Does the senator not think that in the last two weeks we have learned more in the Senate about the cheques, emails, phone calls, threats and backroom negotiations...

[English]

We have learned more during the last two weeks than we've gotten from the government in six months. Had we not had this debate, and if we do not keep this debate going, the truth will not come out. We think we have learned a lot during the last two weeks, and we want to learn more because we do not have the truth in front of us yet.

Do you think we have learned everything there is to be learned?

Senator Martin: I hearken back to what Senator Nolin said in terms of what is the focus that we need to have at this time. We have reports that we have all had an opportunity to see.

I know the work that Internal Economy did, has done in the past and will continue to do. I have great respect for all members of Internal Economy. I've heard the Honourable Senator Cowan echo those same remarks about the kind of thorough and careful work that Internal Economy did. The reports that we have, that we have seen, were done by a third party, and so the evidence is there.

In terms of other information that has been brought into the chamber, yes, we have heard a lot of information. But in terms of the decision that we have to make, I feel that the debates we had and the six-hour debate that we will continue to have are sufficient.

Hon. Jim Munson: Will you take a comment or question?

This is kind of shaking in the sense that you've unnerved me a wee bit because of the reference to veterans. Yes, we're all wearing a poppy and are all cognizant of the fact and have all stood here over the last two weeks, debating — free speech, democracy — and what you have done is something which I'm having a hard time to process, to be honest with you, senator. I'm thinking of my uncles who fought in the Second World War in Europe, facing tyranny, and my Uncle Lloyd Munson who died overseas fighting against the Japanese, and fought for free speech and democracy. Somehow you've put it into this debate.

I cannot believe that you would put that together. Do you think that these veterans today, or people who have died so we can have free speech, would agree with your premise that they died because you are denying us to speak about an issue that the nation cares about and we want to make sure we address all the issues? I don't know how you can put those two together.

One is such a sensitive issue of our past and our history. I'm not at a loss for words, but I don't know how you can put those two together. We're here — you are here, I am here, we are all here — because of mothers and fathers and the rest of it. We're here because we want to say our piece, speak our minds on this. And surely to goodness we could have talked this out, but once again bringing in time allocation and doing it over and over and over again is something your Prime Minister chided our government at the time of not respecting Parliament.

I would like to get your opinion on how you can put these two positions as one.

Hon. Gerald J. Comeau (The Hon. the Acting Speaker): I should warn Senator Martin that the time limit is up on her speech. Is she requesting extra time?

Hon. Senators: Agreed.

The Hon. the Acting Speaker: It is agreed.

• (1500)

Senator Martin: I will just respond.

I apologize to all senators if in mentioning the veterans it has in any way taken away from the point I was making. For me, it was because I was in this very chamber this morning. The Korean War veterans, who are so happy about the special honour that they have been given, were standing with me, encouraging me and just supporting me. I should not have mixed those two. I apologize.

All I can say is that I do believe it is time. We have heard many honourable senators speak more than once, and everybody has the right to do that. At this time, I defend and stand my position on the time allocation. I will say that it was not my intention to bring the two — to say this is what they fought for. Of course I know; all of us know. So with great respect to our veterans, I will separate the two parts and say on this motion that I do stand by the fact that it is time for us to stand together and face this and look at the conclusion of these debates.

Hon. Terry M. Mercer: Senator Martin, don't apologize to us. If you're going to apologize, stand up and apologize to my father, a veteran of the Second World War. You stand up and apologize

to my uncle who fought in Korea. You stand up and apologize to Senator Munson's family who fought overseas. Apologize to the veterans who you have insulted here today when you thought you were doing a good thing. Well, you weren't doing a good thing. You've made the wrong linkage, senator, and you should be ashamed of yourself.

Hon. Anne C. Cools: Honourable senators, I have been listening with care. I was downstairs, and I listened extremely attentively to Senator Martin's statement. I found it short, brief, extremely punctuated, but remarkably deficient, if not empty of what I would call authorities and precedents for these actions.

Usually, when there are huge departures from practice, these departures seek justification, if necessary, explanation, authority and precedents. I would like to know what authority and precedents the honourable senator has relied on in making this motion.

Senator Mitchell: The PMO.

Senator Martin: Senator, I stated in my comment, which was brief, that we will go into two and a half hours of debate, and there are others that will speak. I wanted to keep my remarks to the point simply to say that 73 per cent of Canadians have asked us to bring these debates to a conclusion.

In terms of what authority, well, these tools are available to this chamber, and if we are exercising them with great care and caution — and we are debating this right now — everybody else has a right to rise and speak. I would simply say that if we are using procedures that are within the Rules of this chamber, then that is the authority.

Senator Cools: Honourable senators, I asked the question for the honourable senator to identify the authorities and precedents because her motion relies on none. The suspension motion before us, on which the debate will begin in the not-too-far future, relies on no authorities or precedents. As a matter of fact, precedents and the authorities point against it.

What I am hearing the honourable senator say is, as she had no authorities or precedents to move the suspension motion itself, she has none upon which to found this closure motion. Would she care to respond?

The Hon. the Acting Speaker: Senator Cowan, unless Senator Martin —

Senator Cowan: I thought Senator Martin was going to respond to the comment.

Senator Martin: I would simply say that —

Senator Cools: I am saying to the honourable senator —

Senator Martin: Go ahead, senator. Do you want to finish what you were going to say?

Senator Cools: No. I would prefer if you answer the first question.

Senator Martin: I was just saying right now we're looking at the closure motion. You asked me by what authority or precedents, and I simply talked about this being part of the process.

In terms of the motion itself, we will get to that when we get to the debate on the main motion.

Some Hon. Senators: Hear, hear.

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, the course of these proceedings relating to Senators Brazeau, Wallin and Duffy has certainly been the most troubling I've witnessed in my time here in the Senate. Sometimes we wish Canadians would pay more attention to what we do in the Senate, but I'm sure none of us would wish for this kind of attention.

We are faced with the fact that the behaviour of a few of our colleagues has set this chain of events in motion.

As I've said many times, it's my view that the problem is not with the Senate or the Rules which govern our behaviour. For whatever reason, a few of our colleagues seem unwilling or unable to abide by those Rules which the vast majority of us understand and respect. These individuals have been identified and have been and must continue to be dealt with appropriately, according to the *Rules of the Senate* and with regard to the basic principles of due process, fair play and the rule of law — not simply to meet the short-term political wishes of the Prime Minister.

Given the unprecedented nature of the issue, the gravity of the offences that are now under criminal investigation and the severity of the sanction we're asked to impose, it's troubling that the manner in which the government has chosen to proceed has been, to say the least, unusual, if not strange and, some would say, bizarre.

Let me briefly recap how we got here today.

On May 9, our Internal Economy Committee, then under the leadership of Senator Tkachuk, tabled its reports with respect to Senators Brazeau and Duffy. There was no suggestion in those reports of any need for sanctions or further investigation, including by the police.

I issued a statement that day in which I said that while I supported the committee's recommendations on repayment of the amounts improperly claimed, "I was personally disappointed that the committee did not address the question of whether or not any further disciplinary action or investigation was required."

That seemed to me basic, colleagues. If you abuse the Rules, some penalty, some sanction, will follow. The next sitting day, I made a motion in the Senate to refer the report on Senator Duffy to the RCMP for further investigation.

The government's response through the then-government leader in the Senate was that repayment was all that mattered, case closed. No sanctions, no police investigation, just close the book on the matter and get the whole thing behind the government as soon as possible.

Indeed, colleagues will recall that the government tried furiously to get us to pass the May 9 reports the same day they were tabled, without any debate, indeed without any of us, at least on this side, having had an opportunity to read the reports. We refused, and we were promptly attacked for filibustering and delaying the proceedings.

Well, we all know what happened next. It was shortly after this that CTV reported the secret cheque for \$90,000 from the Prime Minister's chief of staff, which Senator Duffy used to repay the amounts he owed to the Senate. Since then, we've learned, contrary to what the Prime Minister was telling Canadians, this was not a private deal known only to two people. In fact, a number of people in the PMO and top levels of the Conservative Party were involved.

The government wanted Canadians to know none of this. Secret deals were to remain secret. Conversations behind closed doors were to stay behind those closed doors.

The committee's report on Senator Wallin's expenses was considered by Internal Economy also behind closed doors, in secret. That report, tabled through the Clerk in August, has still not been debated, let alone adopted, by this chamber.

As the truth began to emerge, the government scrambled to distance itself from Prime Minister Harper's appointees. Suddenly, the government reversed its position and agreed to refer the allegations regarding first Senator Duffy and then Senator Wallin to the RCMP for investigation.

• (1510)

And when the Senate returned in October, the government also reversed itself on sanctions. In October, in sharp contrast to its position in May, repayment was no longer enough. Sanctions were called for and they were to be as extreme as possible and imposed without examination, without the senators having the right to counsel. There was no committee study into the proposal, no due process and no expert legal advice. Just do what the Prime Minister wants, do it his way and do it fast.

I must say, colleagues, I actually laughed when I heard the Prime Minister, in his speech last weekend at the Conservative convention, say with a straight face that it was the Liberal senators who were blocking action against these three senators. In fact, we have been calling for action since May 9, and it's the Harper government which has spent months trying to sweep everything under the carpet.

And, of course, this is only the latest in a string of contradictions from the Prime Minister.

First, he told Canadians that no one in the PMO, outside of Nigel Wright, knew about the secret \$90,000 cheque. He tried to maintain that, even after media reports surfaced that Benjamin Perrin had been involved. Finally, just a few days ago,

Mr. Harper grudgingly admitted that in fact a “few” people knew about it in his PMO. Colleagues, by some accounts, there were up to 13 people who knew — a baker’s dozen.

Canadians were first told that Nigel Wright was an honourable man, whose resignation the Prime Minister had accepted “with great regret.” These were his words; that was his statement at the time.

Now, the Prime Minister is blaming Mr. Wright for the whole thing, saying that Mr. Wright concocted a “deception” and was summarily “dismissed” by the Prime Minister, when the truth emerged.

Colleagues, what is going on here? Prime Minister Harper is an experienced politician. Politics and the pursuit of power have been his life. He would not misspeak himself about something so important. Yet he had to know that what he was saying was completely contradictory.

Canadians are being asked to believe that Mr. Wright — a highly successful, respected businessman with two law degrees, who has been so loyal to Prime Minister Harper that he has not spoken out once about this whole affair — suddenly and inexplicably “went rogue.” We are told that he alone decided to take \$90,000 of his own money and give it to Senator Duffy, someone with whom he was not particularly friendly.

Now, Prime Minister Harper is trying to persuade his party faithful that his government has been pushing all along for sanctions against the three senators, notably omitting that he himself chose and appointed those senators. Of course, the real truth is that it has been Liberal senators who were pushing for investigations and sanctions, and it was his government that kept insisting that the case was closed.

What did the government do, once it finally had its “eureka” moment and decided that sanctions might indeed be appropriate? Three motions were introduced by Senator Carignan, deliberately moved, so I believed at the time, as non-government motions, reflecting the fact that any discipline is to be an action by the Senate disciplining its own members and not an action by the government telling the Senate how to discipline its members.

And that, colleagues, was how it should be.

This is not a vote that should be whipped.

I have said from the beginning, and I say it again now: I have not and I will not impose my own views on my colleagues. If anything is a matter of personal conscience, this is. We each have to take responsibility for our own decisions here. We cannot evade our responsibility by hiding under the cloak of party discipline.

I hoped, and frankly assumed, the same would hold true of colleagues opposite. Since the motions were explicitly non-government motions, I believed this to be the case, and that there would be free votes on both sides of the chamber. Indeed, several colleagues opposite rose and spoke of their own concerns

with respect to some or all of the proposed motions. That is as it should be. We should all be free to express our own views and vote our own conscience.

We had a number of interesting speeches, including seven hours of speaking by the government leader, and several senators proposed amendments directed at the process.

Then, colleagues, things got really strange.

On Friday, October 25, after only three days of debate, the Deputy Leader of the Government rose and gave notice of a motion that began: “... notwithstanding any provision of the Rules or usual practice...” and then proceeded to, in effect, transform Senator Carignan’s non-government motions into some kind of hybrid pre-Halloween monster motion, seeking, through a government motion, to impose time allocation on these non-government motions.

This was the first clear indication that the Harper government was overtly injecting itself into this internal Senate decision on disciplining three of its members. We protested against this improper use of a government motion. The Speaker agreed with our objections, and last Wednesday he ruled the government’s motion out of order.

But that day, as Lewis Carroll wrote in *Alice in Wonderland*, things got “curiouser and curiouser.”

Even before the Speaker issued his ruling, the deputy government leader gave notice of yet another motion. This time, it was a single government motion that lumped all three senators together. So, as of last Wednesday morning, we had before us: Three separate, non-government motions proposing one sanction for each of the three senators — suspension with no pay, no access to Senate resources and no insurance benefits; we had a government motion that would have imposed time allocation on those three motions, apparently to make us hurry and conclude consideration of those three motions; and we had notice of a new motion, a government motion, that lumped all three senators together and set out a different sanction for them. This time they could retain their life, health and dental insurance.

I rose and asked the government leader if he could explain what in the world he was doing. This was just, as I say, bizarre. There was, as you will recall, no answer.

Later that day — again, this was last Wednesday, colleagues — we voted on several of the amendments that had been put forward on the three non-government motions. Debate continued. In other words, in this strange through-the-looking-glass world, we continued, even though there was this other, government motion waiting to be moved.

And the next day? Well, the next day, last Thursday, the government moved its motion — the “all-senators-are-alike-lump-them-all-together-and-let-them-have-their-heart-medication” motion. Even that was strange. You will recall that the deputy leader began to speak to her motion and then her leader, Senator Carignan, interrupted her, quite literally in the middle of a sentence, took the papers out of her hand and proceeded to try to take over the debate. This led to much

confusion and, indeed, required the intervention of our Speaker. By agreement, I spoke briefly and moved a motion in amendment. Senator Carignan then spoke and adjourned the debate.

At that point, the Deputy Leader of the Government rose again, this time to give notice of a motion to allocate time, the motion we're debating now. Not only will we not send these issues to committee; we will not be allowed to continue debate.

Colleagues, we are dealing with extraordinarily serious issues. The reputations and livelihoods of three of our colleagues are on the line. We are being asked to make decisions with no possibility of appeal to any court or other body. But instead of seriously considering the appropriate way to address each of their unique situations, we have been forced by the government to spend many hours trying first to understand and then to debate their different motions, including challenging their misapplication of our Rules. And, of course, proper interpretation and application of the Rules is critical. Indeed, you'll recall it is the abuse by three senators of our Rules that has led us to these suspension motions in the first place.

I've said repeatedly, and I repeat it again today, I do not support the actions of the three senators in question. To the contrary, I believe that where a senator has abused our Rules, then the Senate has a right and indeed a duty to consider disciplinary actions, including sanctions.

But, colleagues, all Canadians, no matter what they've done — even those who commit murder — are entitled to due process. The crime of embarrassing the government or the Prime Minister does not change that fundamental principle of Canadian justice.

• (1520)

Prime Minister Harper is studiously avoiding any acknowledgement of his role in all this, but let's be clear. These three senators were all appointed, with much fanfare, by this Prime Minister. Indeed, a few days ago, on CBC's *The National*, Peter Mansbridge displayed a photo of Prime Minister Harper and Senator Duffy, on which the Prime Minister had written:

To Duff,

A great journalist and a great Senator. Thanks for being one of my best, hardest-working appointments ever!

Stephen Harper.

I appreciate, colleagues, that the Conservative brand has been deeply damaged by the actions of these three senators, because their actions reflect so badly on the judgment of Prime Minister Harper. And I also respect the fact that revisionist history is now the order of the day. But, colleagues, surely there are limits. Political expediency cannot trump justice. Due process is not something to be cast aside, ignored, replaced by show trials when the facts become inconvenient to the Prime Minister's narrative.

We are supposed to be the chamber of sober second thought — the chamber intended to uphold fundamental principles most especially when the dictates of politics allowed those principles to

be brushed aside elsewhere. Colleagues, if we don't do that, if we allow our judgment, our commitment to fundamental Canadian principles of due process and the rule of law to be overwhelmed by politics, then we will have damaged "the dignity and reputation of the Senate and public trust and confidence in Parliament," arguably no less than — and perhaps even more than — the three senators at issue here.

No court would shut down proceedings to suit the prosecutor's or even the judge's needs, as the government — in this case unquestionably the avenging prosecutor — is attempting to do here.

My colleague Senator Dyck has done excellent research into some of the legal issues raised by the government's actions here, which she has been kind enough to share with me, and I look forward to her sharing with the whole chamber. One of the cases that her research led me to is a decision of the European Court of Human Rights, the case of *Demicoli v. Malta*, of August 27, 1991. Senator Baker probably hasn't read that one. He will now.

One of the arguments successfully raised by the applicant in that case was that he was not given a fair hearing by an independent and impartial tribunal. The tribunal in question, colleagues, was the Maltese House of Representatives, and the case centred on a finding that the applicant had breached the privilege of the house. The applicant claimed that "The political context in which the proceedings against him were conducted 'made a mockery of the whole concept of the independence and impartiality of the judiciary'." He noted that members of Parliament sat "as victims, accusers, witnesses and judges."

Colleagues, as we are here today, can we truly claim that we are giving these three senators a fair hearing by an independent and impartial tribunal?

The motion before us is one of time allocation — to cut off debate, to force a vote in a debate where some seven hours were taken up by the government leader — the lead prosecutor, if you will — making his case. In the few days allotted to this spectacle, the government has moved numerous conflicting motions, changing its plan from day to day — and, it appears today, perhaps from hour to hour — resulting in hours spent in procedural wrangling rather than substantive consideration of the merits of the issues being decided.

And who can claim that we are an independent and impartial tribunal, certainly not now that the government has decided to proceed with a government motion against its own former government members.

We started with three individual motions for three individual senators. But in this trial taking place in the Senate, they are now to be tried as a collective and not as individuals. All three are being treated identically, although we heard the allegation that the government, in another bizarre twist to this sordid tale, apparently offered yet another behind-closed-doors deal to one of the senators in which he would receive a different, more lenient sanction if he would only apologize.

Colleagues, how can Canadians be asked to believe that it is the Senate disciplining its members when it is the government that is setting the sanctions, and indeed offering secret deals to change the sanction that we are then supposed to impose?

I have said repeatedly that we are being asked to go about this backwards. I quoted Lewis Carroll's Alice in Wonderland books earlier. As Ramsay Cook, the noted historian, wrote in a letter to *The Globe and Mail* last week, the proceedings in this chamber more closely resemble those in Alice in Wonderland. "Let the jury consider their verdict," the King said. "No, no!" said the Queen. "Sentence first — verdict afterwards."

Colleagues, these are not issues that can be disposed of in a few days' debate in this chamber, and certainly not in a few hours' debate under the threat of the guillotine of time allocation, and with the Prime Minister making it publicly clear what verdict he expects.

I have said before, and I repeat it now: We should proceed as this chamber traditionally proceeds on complex matters before it and send this matter to a committee for serious study. We can do this while imposing a timetable, requiring the committee to report back by a stipulated date to avoid any possibility of undue delay. But it would allow the accused senators to appear, and with counsel if they choose, and for evidence to be heard and tested by the committee members and, indeed, by the accused senators themselves.

Senator Mercer: Novel concept.

Senator Cowan: Critically, it would allow us to hear legal advice on the question of whether we can safely proceed to impose sanctions without in any way jeopardizing the ongoing RCMP investigations. Senator Baker and others have spoken at length explaining why this is a serious concern. I am sure — and I certainly hope — that all senators join me in wanting to be very sure that nothing we do in any way thwarts the work of the police down the road in investigating possible criminality or any subsequent criminal prosecution that may result.

Senator Carignan has been very frank with this chamber: He has not sought nor has he obtained any expert legal advice on this very important question. He has told us that he conducted his own research and he himself is satisfied. But, colleagues, he is not a recognized expert on these issues — he can be wrong. Indeed, he clearly was wrong when he and his deputy leader tabled the government motion for time allocation, a motion ruled out of order by the Speaker in a decision not challenged by this chamber.

The stakes on this are simply too high, colleagues, for us to proceed without hearing expert legal advice. Yet that is what the government is asking us to do.

But that is not the only issue that needs to be explored. We need to look into the timing questions to understand why the government is adamant that now is the right time to impose these sanctions, rather than last May, as I had suggested but which the government rejected at the time, or later, after the RCMP has completed its investigations.

Colleagues, only after we have properly considered these issues can we then turn to considering what would be the appropriate sanction for each senator. Senator Eggleton and others asked Senator Carignan to explain the criteria he used in arriving at the sanction he proposed for each senator. No criteria were provided; we were in effect told that a senator proposes and the chamber disposes. No rationale; no explanation.

[Senator Cowan]

That is not how the fate of three Canadians should be decided. Senator Carignan has cited the precedent of the House of Lords, which sanctioned several members in 2010 for improper expense claims. Colleagues, the House of Lords imposed different sanctions for each member. It was definitely not one size fits all. And, as I have pointed out previously, the sanctions were recommended by a committee that studied the circumstances of each member's breach of the Rules and then came up, by way of recommendation, with what they considered to be an appropriate sanction.

The government has been clear that in its view these matters should not be sent to committee. We have been told that debate in this chamber is all that is required.

Honourable senators, as I conclude, I would like to speak directly to my Conservative colleagues here in the Senate.

I have stated my own views and the reasons why I cannot support this motion or the process that has brought us to this point.

Many of my colleagues on this side of the house, and most independent senators, have intervened in the debate, but, sadly, very few Conservative senators have done so.

With respect, colleagues, this is not good enough. You owe it to us — and, more importantly, to the thousands of Canadians who are following this debate — to stand in your place and explain why you support this process and the motion before us — before you cast your vote tomorrow afternoon.

• (1530)

There are important principles at stake — fairness, due process and the rule of law, the independence of the Senate and the integrity of the way we do our business — in this chamber and in our committees.

Serious questions and allegations have been raised about the influence on, and the interference in, the independence of the Senate by outside powers, including the Office of the Prime Minister of Canada. As we speak, we do not know whether any or all of those allegations are true. In due course, we hope the RCMP investigation will get some answers, but in the meantime, the Senate and all who sit in it are under a cloud of suspicion.

We do know that in the midst of a forensic audit of the travel and living expense claims of one of our colleagues, the Prime Minister's chief of staff cut a personal cheque to repay those claims.

We do know that the fact of that gift was not admitted by either Mr. Wright or Senator Duffy until it was disclosed in the media.

We do know that the government majority on the steering committee of Internal Economy originally accorded Senator Duffy treatment preferential to that which it meted out to Senators Brazeau and Harb.

We do not know whether these events are connected or are mere coincidence.

I watched with interest the speech delivered by Prime Minister Harper in Calgary on Friday night. Some of you may even have been there. He took credit for everything that actually or arguably

has been positive since 2006 while shirking responsibility for all the problems, all the bad news, all the mistakes and all the miscalculations over that period.

Colleagues, you can't have it both ways. You can't take credit for the sunny days and blame someone else when it rains.

To first say Nigel Wright acted on his own, then with the knowledge of a few, and now a dozen or so; to refuse his resignation, then accept it, then say he was dismissed and accuse him of deception — which is it?

Colleagues, this has been portrayed as a Senate scandal — but really, as I said at the beginning of these remarks, it's a scandal involving a few senators that reflects badly on the Senate — but recent polls, and Senator Martin referred earlier to polls, have shown that it reflects even more badly on the Prime Minister of Canada.

So I can readily understand why the Prime Minister wants this debate shut down, three of his appointees to the Senate of Canada suspended without pay, deprived of their parliamentary immunity and, perhaps most especially, denied this forum to further shred what remains of the Prime Minister's tattered credibility with respect to his handling of this sordid affair.

But are we, colleagues, and particularly you — and I am addressing those of you on the other side — willing to become accomplices in this charade, or are we, and particularly you, prepared to stand up and say “No” to this travesty of a process and cover-up? We, and particularly you, can bow to pressure from the PMO and go along with this scheme, or we, and particularly you, can assert the independence of this chamber and do what we all know is the right thing to do: stand up for due process, fair play and the rule of law.

Colleagues, Canadians are watching us in numbers and with an intensity not seen in decades — not just to see what we do but to see how we do it. We owe it to them, to this institution and to ourselves to choose the right path.

Some Hon. Senators: Hear, hear.

Hon. Donald Neil Plett: I am wondering whether Senator Cowan would take a question.

Senator Cowan: Of course.

Senator Plett: Senator Cowan, you gave a great speech, and I probably agree with the majority of your speech. You said we can't have it both ways. I am one of those few Conservative senators who did speak against the motion. I plan and hope that I will have time to speak again when we get to the main motion.

You talked about not having it both ways. I have great respect for all of my friends opposite, but certainly in the other place, if not in this place, your colleagues have been screaming for the heads of these three senators for months on end. I do find it strange. I'm not doing this for political purposes. If I did it for political purposes, my speech would have been different than it

was. I am doing it because I personally believe in something, and I'm sure you do. Certainly the Liberals in the other place have been screaming for the heads of these three and screaming for the head of Nigel Wright. When something is done to maybe give them those heads, whether I agree with it or not, they all jump up and say now we are doing the wrong thing again.

You spoke about Nigel Wright. He is no longer in the employ of the Prime Minister. The Prime Minister either accepted his resignation or dismissed him, whatever he did, but he readily accepted his resignation if not the other one.

I am wondering how you square that box when you talk about not having it both ways. I think that same thing should apply to members opposite. You also can't have it both ways. You either need to stand on principle on this issue or you need to make political hay out of it. I'm not accusing you, sir, of doing that, but I am very suspect of your colleagues in the other place.

Senator Cowan: Thank you, Senator Plett. I do commend you for having spoken earlier, and I look forward to your comments later today.

Senator Nolin made this point a number of times, and I think we are all agreed, that it is our responsibility — not the responsibility of the members of the House of Commons or some court somewhere, but our responsibility and our duty to make our Rules and discipline our members, and we can't fob that off on anybody else. It is our responsibility.

What I am fighting for is a fair process for three of our colleagues. On another day, it could be one of us, and we are establishing a precedent today. When we deal with these three colleagues in this way, that is a precedent that can be followed in the future with respect to other senators. That is not a threat but simply the situation as it is. I think we have a responsibility.

I have been arguing for a fair process to deal with colleagues of ours in this place. Colleagues in other places have a responsibility to deal with their place. I think we have more than enough to do here without worrying about the other place. My point, senator, is simply that I'm speaking about the processes that we're dealing with here with respect to people for whom we have a responsibility.

The Hon. the Speaker: Honourable senators, pursuant to the Rules, the leaders have 30 minutes. I have to advise the house that the Honourable Leader of the Oppositions' 30 minutes have expired unless there is a request and unanimous consent for more time.

An Hon. Senator: Thirty more minutes.

The Hon. the Speaker: Are you asking for more time, senator?

Senator Cowan: I do not like to take up too much time, but if Senator Plett has another question, I will be happy to answer.

The Hon. the Speaker: Is there agreement for five more minutes?

Hon. Senators: Agreed.

Senator Plett: I would like to make a short comment because I want to leave time for my leader, who was getting up to ask a question. I would ask that you encourage members in the other place to let us do our job and deal in that place with what's important, and that is running the country.

Senator Cowan: I would remind you, if we are talking about people in the other place leaving us alone, that it is the Prime Minister of Canada who has told us what he wants us to do. I would be happy to suggest that my colleagues there refrain from commenting on what we do here if you would be prepared to pass on the same advice to your side.

[*Translation*]

Hon. Claude Carignan (Leader of the Government): My question is for the Leader of the Opposition. I reviewed some of his speeches over the weekend and I listened to him speaking earlier. He talks about the notion of due process and in the same speech condemns the actions of our three colleagues. I think that due process has been followed and has been followed here in our chamber.

Your argument for due process means we should not have any biases. When we are listening to others, we should not have an opinion on the situation. How can you make a case for due process and in the same speech condemn the actions of the senators? Where is the logic there? Is it not purely partisan?

• (1540)

[*English*]

Senator Cowan: I'm not sure those comments of Senator Carignan are appropriate.

I will repeat what I have said here. We have been clear: We accept the work that was done by Internal Economy. We're not asking that that work be done again. I raised the issue in May about whether additional sanctions should have been imposed. Your government said no; Senator LeBreton said to pay the money back — case closed. It begs the question, and there has never been a satisfactory answer to that question: Why is it now, in October, that you introduced these motions and then tried to rush them through in various convoluted forms, rather than taking that position in May, if you felt it was appropriate to impose additional sanctions, or alternatively, waiting until the police investigation is complete? To my understanding, there has never been any satisfactory answer given, Senator Carignan, as to why you want to proceed now in the way that you have proposed, whichever way you have proposed. There have been a dozen different approaches that you have taken, so it's a little hard to follow the score card.

The basic position we have taken is that there has to be due process, and we're not asking to redo the good work done by Internal Economy, which was an accounting measure. Senator Tkachuk and Senator Comeau have repeated this several times in the course of this investigation: They were simply going through it. They were not looking at the matter the way that you're now asking us to look at it, to impose additional sanctions. Indeed, they said that that was beyond their capacity and beyond the mandate of the committee to do so.

I raised the issue of whether it would be appropriate for the Senate, having received those reports, to impose additional sanctions. The response of the government was no. For reasons that I do not understand, apart from — since Senator Carignan raised the issue of politics — the political imperatives of the Prime Minister, why now? I do not know the answer to that question.

The Hon. the Speaker: We have to now continue debate, time having expired. On debate, the Honourable Senator Wallace.

Hon. John D. Wallace: Honourable senators, Senator Martin's motion to suspend Senators Brazeau, Duffy and Wallin is obviously an extremely serious matter. That motion includes serious allegations of gross negligence against Senators Brazeau, Duffy and Wallin in the management of their parliamentary resources, allegations that could result in serious long-term consequences for some or all of the three senators, including loss of remuneration, loss of employment, what in effect could result in expulsion from the Senate, lifelong and irreparable damage to their reputations, to their careers, to their ability to seek and obtain other employment and damage to their personal health.

The personal stakes in all of this could not be higher. Furthermore, these allegations of gross negligence and the manner in which all of the matters related to each of them will be considered, debated and dealt with in this chamber will undoubtedly have very significant consequences for the long-term credibility of this Senate institution.

Honourable senators, I would like to begin by drawing your attention to what I consider to be critically important aspects of Senator Martin's suspension motion and why I believe our consideration of each of these aspects would be adversely impacted if the time allocation closure motion is adopted by this chamber.

First, each of the three senators stands accused of gross negligence in the management of their parliamentary resources such that their alleged act or acts of gross negligence would constitute sufficient cause for this chamber to order their suspension from the Senate of Canada.

Second, the only facts and information on which each of us as senators can base our individual conclusions as regards any alleged acts of gross negligence are solely those that will be presented in this chamber during our consideration of the suspension motion. Facts, rumour, innuendo and unsubstantiated allegations that may be found in the media or elsewhere outside of this chamber, including unsubstantiated allegations attributed in the media to the RCMP and its investigations, are entirely irrelevant to our deliberation of any of the matters that may arise in respect of this suspension motion.

Third, I am certain that each of us would agree that as senators of Canada we must play by the Rules. That, of course, not only applies to the manner in which we conduct ourselves and participate in our Senate business, but also to the manner in which we conduct and participate in all disciplinary hearings of this chamber.

Fourth, after giving full and thorough consideration to all of the information brought before this chamber in regard to any alleged acts of gross negligence, we must also be satisfied that all

of the sanctions proposed for each of the three senators, including the duration of the proposed suspensions, are in the circumstances fair, reasonable, balanced and proportionate to what has been alleged against each of them.

As I have said, only the facts and other information presented in this chamber should be considered in reaching our individual conclusions as regards the suspension motion. It should go without saying that we must absolutely have sufficient time in this chamber in order for us to adequately consider, question and debate all of these facts and other information.

From what we know, what could these facts be based on? Number one, the individual reports of both Deloitte LLP and the Committee of Internal Economy that were prepared in respect of each of Senators Brazeau, Duffy and Wallin and that have been presented in this chamber; number two, all other information that may be provided in this chamber by Senators Brazeau, Duffy and Wallin; and, number three, information and viewpoints that may arise from debates by the members of this chamber.

Honourable senators, from reading all of these reports of Deloitte and the Committee on Internal Economy, I believe it is extremely important to realize that neither Deloitte nor the Committee on Internal Economy were requested to determine if any acts of gross negligence had in fact been committed by any of the three senators and, furthermore, Deloitte and the Committee on Internal Economy offered no such opinions in this regard in any of their reports.

In their reports, Deloitte and the Committee on Internal Economy have provided us with information regarding Senators Brazeau, Duffy and Wallin. I suggest to you it is for each of us individually to carefully assess and consider all of that information and determine what weight should be given to it in reaching our individual conclusions as regards the alleged gross negligence of each of the three senators.

Honourable senators, I would now like to provide some further thoughts for your consideration regarding the disciplinary process that results from Senator Martin's suspension motion.

By combining the allegations of gross negligence that are directed towards each of the three senators into one motion and pursuing a one-size-fits-all approach in seeking the same sanctions against each of them, it implies that there was or may have been a commonality of purpose or result on their part.

Honourable senators, this approach flies directly in the face of the reality that these are three separate individuals with three very different sets of facts and circumstances. I would suggest to you in the strongest of terms that our consideration of the allegations of gross negligence that have been and will be made against any one of them in this chamber must not only occur but must also have every appearance of occurring entirely independent and separate and apart from any of our considerations that may apply to the circumstances of any of the other senators in question. I'm of the view that this "one-size-fits-all" approach in the current suspension motion fails to achieve that.

• (1550)

Honourable senators, in terms of the process that must be followed with all disciplinary hearings and motions that come before this chamber, we absolutely cannot take any short cuts to achieving a fair and just result for those who stand accused.

Some Hon. Senators: Hear, hear.

Senator Wallace: We absolutely must resist the temptation to do so, no matter how inviting it may seem at the time. A rush to judgment can result in justice denied.

Our sworn responsibilities, when we became members of the Senate of Canada, require that we must always give careful consideration, complete thought and consideration to all of the matters that are before us. The current situation should certainly be no exception.

I cannot for a moment imagine that there is anyone among us who would believe that each of the three senators should not be afforded all reasonable time and every reasonable opportunity so that they are able to meet head-on the specific allegations of gross negligence made against them and, in their responses, be able to answer and reply as fully and as effectively as they choose to do so.

It is my opinion — my very strong opinion — that to limit to a total of six hours the total time that would be available for the presentation, responses and senatorial debate for three separate, unrelated allegations of gross negligence against Senators Brazeau, Duffy and Wallin would be a serious and significant shortcoming of natural justice. No matter how the six-hour total could be allocated among the three senators, that would, in my opinion, still be entirely inadequate.

Honourable senators, during this chamber's consideration and debate of Senator Carignan's three other business motions over eight sitting days, a total of seven separate procedural and amending motions were presented in this chamber by either Senator Cowan or Senator Fraser and, of course, each of these amending motions had to be debated and voted on in this chamber. The substance of each of these amending motions was identical and it became clearly evident after voting on the first two that the will of the majority in this chamber was obvious to all and that these amendments were not going to be approved by the required majority in this chamber.

What impact did this continuing flow of proposed amendments have on this chamber's consideration and debate on each of Senator Carignan's three suspension motions and, more particularly, on the abilities of Senators Brazeau, Duffy and Wallin to defend themselves and present their positions, their explanations, in a manner that is coherent, comprehensive and uninterrupted? These amendment actions all but paralyzed the ability of this chamber to use the time available to properly consider debate and reach our individual conclusions on the issues relevant to the three suspension motions.

More importantly — and although I am certain it was not the intention of Senators Cowan and Fraser to do so — these actions did have the negative effect of seriously impacting and prejudicing

the ability of the three senators to defend themselves against these serious allegations in a manner that is expected and should be demanded of this chamber.

In conclusion, honourable senators, we must not further compromise and, from my perspective, unreasonably restrict Senators Brazeau, Duffy and Wallin's ability to respond to serious allegations of gross negligence and which allegations could result in their suspension from the Senate of Canada. That is what I believe would be the consequence if we were to approve the proposed six-hour time allocation closure motion that is before us. Thank you.

Some Hon. Senators: Hear, hear!

[*Translation*]

Hon. Claudette Tardif: Honourable senators, I rise to speak to the time allocation motion. I will continue to argue that the issue of sanctions for our three colleagues must be dealt with judiciously. This chamber has the responsibility of examining the conduct of its members. When there are abuses, we have a responsibility to take corrective action. However, we must exercise prudence, not only in the measures we take, but also in our approach. Before deciding if we should suspend three of our colleagues, we should proceed with respect for the fundamental principles of justice by identifying a just and fair process. The government is trying with all its might to hastily impose sanctions by bringing in this time allocation motion. However, after several days of debate, the Leader of the Government in the Senate still has not explained why the same approach and the same sanctions apply to all three cases. Not only is the government refusing to consider a process which, in my opinion, would respect the principles of justice and fairness, it is also denying the senators the right to speak by cutting short the debate. We cannot claim to be fulfilling our mandate of sober second thought and objective review if such limits are imposed when senators oppose the will of the government.

Why should we rush to end debate on these three cases? According to the government, this time allocation motion is necessary because the issue of sanctions for our three colleagues is preventing us from proceeding with the items on the Senate's Orders of the Day.

Honourable senators, I find it incredible that the government is telling us, indirectly at least, that we are obstructing the Senate's other work; that the only way to proceed is to end debate, vote and turn the page on this matter; and that by disagreeing we are responsible for delaying our work.

The government determined the Orders of the Day now before us. This situation we have found ourselves in since the opening of the session is the result of the government's own decisions. What is more, the only thing stopping us from moving on to other items on the Orders of the Day is the government's refusal to call them.

Senator Ringuette delivered an excellent speech on her bill to reduce the fees imposed on merchants by credit card companies. As Senator Mercer mentioned the other day, the Speech from the

Throne was delivered more than two weeks ago and no one has moved a motion to study it yet. No one on this side of the chamber can do so in the government's place.

• (1600)

If the government seriously wants to resolve this matter fairly and within a reasonable period of time, then the amendment moved by Senator Cowan seems to make a lot of sense. To get to the bottom of things and give the sober second thought that is consistent with the constitutional responsibility of this chamber, it seems quite reasonable to me to charge a committee with examining the motion and hearing the senators involved and any other witnesses or experts who might help us in our reflection. We proceed in a similar fashion when we examine bills. Why should we settle for anything less when making a decision on an historic, unprecedented matter in this chamber, which will have major repercussions not only for three of our colleagues, but also for the dignity and reputation of the Senate?

There are still too many questions without answers for us to sweep this under the rug, as the government would like us to do, by suspending the three senators without giving them the chance to be heard during a process that is worthy of our principles of justice and fairness.

[*English*]

Honourable senators, I stopped counting a long time ago the number of times I've risen in this chamber to speak on time allocation, closure or guillotine motions. It is getting to be a habit with this government, ramming legislation and motions through the Senate as if this chamber were nothing more than a rubber stamp.

This motion is not the only measure invoking closure that the government has pushed through over the past few years. For example, the government has used closure as a procedural hammer to shut down debate on Bill C-10, the omnibus crime bill; Bill C-18, the Wheat Board bill; Bill C-19, the bill abolishing the federal firearms registry; Bill C-27, the bill concerning the financial accountability and transparency of First Nations; and Bill C-31, the immigration reform bill. It is now common practice for the government to push through omnibus budget bills using closure, containing hundreds of clauses amending several acts, which go far beyond what could reasonably be considered fiscal policy.

Today, we see an omnibus sanction motion which lumps together, under Government Business, what was previously dealt with in three separate motions of non-government business. This disturbing pattern does a great disservice to this place.

Today, we see again the leadership of the government in the Senate expecting to see an important and consequential motion passed within the next day. Many senators and many Canadians have real concerns about the government motion before us. Rather than using a procedural manoeuvre to rush it through, this chamber should take the time to establish a fair and reasonable process for the matters before us. Canadians want to have the

[Senator Wallace]

assurance that there is due process, that the rule of law is being respected, and that there is a presumption of innocence before being proven guilty; and they want to know the facts, all the facts.

Honourable colleagues, while I cannot expect to change the minds of the government leadership on this motion, I do hope that other senators opposite will carefully consider the closure motion that they are being asked to support today. I believe that the government is doing a disservice to the institution we represent by doing things this way. I must oppose this time allocation motion, and I would encourage all honourable senators to do so.

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

Senator Cools: Honourable senators, I rise to speak, as strenuously as I possibly can, in opposition to Senator Martin's motion. I believe it is unparliamentary, unconstitutional and unjustified. It would seem to me that the government has always claimed priority over the affairs of the Senate. I do not understand why this rush is on.

Honourable senators, I'd just like to say, from where I'm sitting — and I have a few miles on me now, as you all know, a few miles, just a few, but I have seen a lot in this place. When I came to the Senate, there was no mention in the Rules to suspend a senator. Suspending a senator was unheard of in any of the Rules. Nor were there any rules that differentiated between government business and other business.

Honourable senators, we must accept that government's priority in business was established in 1991 and the suspension rules in 2001. I urge my colleagues to look at these rules very carefully.

I may be the only person in this room to say what I'm about to say, but this country and this government is moving towards a constitutional crisis. The time is coming when the Governor General will have to intervene. Colleagues, Senator Martin's closure motion, like her suspension motion, is an outlaw. As drafted, it is founded on the absolute rejection and repudiation of the suspension rules prescribed by the *Rules of the Senate*, chapter 15. These motions are outlaws.

Honourable senators, let us begin with the suspension motions. These suspension motions each begin with a notwithstanding clause. A rule can be suspended, but it is the practice in the *Rules of the Senate* that the part of the Rule or the Rule that is suspended has to be stated and leave of the Senate be asked. However, these motions begin by suspending every single rule in the Senate. What, then, are we to use as a guide?

Honourable senators, I studied these motions very carefully, and I noticed they repeat the words "for sufficient cause." I challenge anybody here to tell me where the term "sufficient cause" came from.

I have wondered why the supporters of the government had to abandon all the Senate Rules on suspension to achieve the suspension of these senators. The reason they had to do that,

colleagues, is that the current suspension rules would not have allowed the severity and the harshness that is articulated in the current set of suspension motions.

Let us understand very carefully that even the Senate suspension motions are questionable to some degree — and I opposed many of those at the time — but they are nothing like what these motions order. I would like to emphasize that the Senate suspension rules have been rejected, because the Senate suspension rules state very clearly that if a senator is charged, he is to be granted a leave of absence. Senators Martin and Carignan will not tell us why this extralegal procedure is required, and neither will his supporters, who seem prepared to vote, but will not speak in these debates.

Honourable senators, Senator Martin's motion says that the three senators are suspended, "for sufficient cause." This term was lifted from Senate rule 15-2(1) which states:

The Senate may order a leave of absence for or the suspension of a Senator where, in its judgment, there is sufficient cause.

This rule was repudiated and not withstood because it prescribes that a leave of absence should precede any suspension.

Rule 15-4(5) expressly states:

... the Senate affirms the right of a Senator charged with a criminal offence to be presumed innocent until proven guilty...

Rule 15-4(1) informs that when a senator is charged with a criminal offence, he must notify the Senate by a signed notice and rule 15-4(2) states that when this notice is given:

... the Senator charged is granted a leave of absence from the time the notice is tabled and is considered to be on public business during this leave of absence.

• (1610)

Honourable senators, the dispensed with Rule 15-5(1) is critical. It says:

A Senator who has been found guilty of a criminal offence in proceedings by indictment —

— not summary conviction, indictment —

— and who is given a sentence other than a discharge is suspended from the Senate as of the time of the sentence.

Honourable senators, all of these rules were rejected because, if this motion were to proceed by the Senate suspension rules, they could not have resulted in these motions. And these motions are written — I looked at the drafting very carefully — by cherry-picking some expressions of the many rules, so that they sound like the Senate Rules, but do that which they cannot do, that is to impose severe penalties and consequences not possible by the dispensed Senate Rules, which they conveniently discarded and set aside.

I hope that Senator Martin is listening with great care, because there's something very wrong when a motion begins with the

expression “notwithstanding.” That is “Notwithstanding any usual practice or provision of the Rules...”

All of these notwithstanding rules hide behind the infantile justification “... in order to protect the dignity and reputation of the Senate and public trust and confidence in Parliament...”

Colleagues, this is the real Senate scandal. What the government has been asking this house to do, these irregularities in natural justice and due process, and the total abandonment of the entire regulatory system of procedure in this place. That is the scandal, not these three senators. That is the real scandal. And that is what I mean when I say we’re moving to some kind of a constitutional crisis.

Honourable senators, it was in 1991, after a very difficult battle on the GST, which I was a part of, that the government brought in these rules by which the government now has priority of their business in the Senate.

I want to make it quite clear here, colleagues, that “government” is used nowadays as a catch-all phrase. I wish to make that point again: There’s not a government member in this Senate. There is not a member of the government in the Senate, and when these rules were created in 1991, they were premised on the presence and the existence of a member in the Senate who would be a member of the government, a cabinet minister.

Honourable senators, this has not changed. We cannot continue as it was before the new change. As such, we must face the fact that the current leadership here, not being members of the government, ministers cannot invoke the privileges that come from being a member of the cabinet and a senator at the same time, and I would like us to put that into debate. It’s a very serious matter.

Honourable senators, I have looked up the definition of “government business.” Remember, “government” can mean anything from the departments of government to the ministry. The definition of “government business” is very interesting. Appendix I to our Rules, entitled “terminology”, “A bill, motion, report or inquiry initiated by the Government. Government business, including items on notice, is contained in a separate category on the Order Paper, and the Leader of the Government or the Deputy Leader may vary the order in which these items are called.”

Colleagues, none of these notwithstanding motions have been initiated by the government. We must understand what is happening here. Neither the leader in the Senate — or the person calling himself the Leader of the Government in the Senate — nor the deputy leader is a member of the government cabinet. Non-members of the government cannot initiate government business. This has been the practice in this place. I have been here for 30 years, and the standard rule in this place is that only a minister of the Crown can stand and answer questions for the government.

I don’t know about the situation in Diefenbaker’s time, when the Leader of the Government was not a senator, but I will tell you in those days you didn’t have the distinction between government business and the rest of the business.

Colleagues, this is an extremely important matter, this government business as initiated by ministers of the Crown.

Honourable senators, I looked at the Privy Council Office website, specifically reading about the PCO ministers. I want to put a few things on the record.

I notice that the PCO ministers page informs that the PCO provides support for the Prime Minister and the ministers within his portfolio. Senator Carignan’s name is not there, so we know for sure that he’s not a minister. Colleagues, my question is, how does the Senate, our record, and Rules know that Senator Carignan is the Senate government leader?

Honourable senators, I am not convinced that the situation is what these colleagues believe: that the government leader can be here as a non-minister, and just call things government business and it becomes government business. This matter must be looked at in a very serious way. This government business and government priority were created by the new Rules in 1991.

Colleagues, I have known for a long time that the houses can grant leaves of absence to members, and it usually was that they rose, asked for and got it. But I want to let colleagues here know that suspension and removals are the sole and exclusive business, the sole and the exclusive ken of the Governor General. We must understand what these motions are inching towards, and I would like to read the authority for that.

The Governor General of Canada is constituted not by the BNA Act, but he’s constituted by the Queen’s own hand. My authority is the 1947 Governor General’s Letters Patent, given by the Sovereign’s hand. The Letters Patent, Article V states:

And We do further authorize and empower Our Governor General, so far as We lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any person exercising any office within Canada, under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or under Our authority.

Make no mistake, colleagues, the power to suspend is a royal power. And, in Canada, the people who work on this are extremely secretive. I have been told by my Commonwealth lawyer friends around the world that Canada is one of the most secretive countries in respect of the exercise of the royal powers.

I wish to say to colleagues that some senators have been very concerned about this motion. Some senators have been disturbed and are uncomfortable with this motion. I would like to say the entire process is irregular.

The Hon. the Speaker: Sorry to interrupt, senator, but this might be helpful for all honourable senators: Rule 7-3(1)(f) provides that honourable senators participating in this debate have 10 minutes. If Senator Cools wishes to conclude and ask the house for five more minutes, I’m sure the house would grant five more minutes.

Hon. Senators: Agreed.

Senator Cools: We must understand that we just cannot wish these letters patent and their powers away. Many Canadians have been conditioned to believe that the Governor General of Canada is a mere ornament. I always affirm that Government House is the seat of government, not Langevin Block, but Rideau Hall. All of the Governor General's actions are instruments of power: warrants, letters patent, commissions, and so on. I hope that he's watching all of this very, very carefully.

I would like to say that when the Senate suspension rules were created in 2001, there was a fair amount of creativity in them and a fair amount of invention and innovation. I have seen that a lot in this place. I saw it with the creation of "government business" and government priority in the Senate.

When those suspension rules were created back in 2001, as usual I was in a minority. I have spent much time in the minority. It just seems to be my fate. But I have spent much of my time resisting this kind of tyranny as well.

- (1620)

Honourable senators, at the time, in 2001, I had asked for the authority for the suspension rules, because for 140 years, senators didn't think that the Senate had the power to suspend. They gave me a case called *Bradlaugh v. Gossett*. Joseph Maingot writes much about this case in his 1997 book, *Parliamentary Privilege in Canada*, second edition.

He wrote about the disciplinary power in the House of Commons under the heading: "Jurisdiction over its Members is absolute and exclusive."

Maingot informs that the power of the House of Commons to suspend members is founded in the 1884 case *Bradlaugh v. Gossett*. In this case, the plaintiff, Bradlaugh, was a member of the House of Commons who was excluded by the sergeant-at-arms by a house order. He was excluded from the house, and apparently this happened because Mr. Bradlaugh had created some sort of a disturbance in the house, and it had to do with the fact that he wanted to take his oath, and he couldn't get it the way he wanted. Anyway, there is a disturbance. Mr. Bradlaugh sued the sergeant-at-arms.

The name "Gossett" is quite famous. He was a sergeant-at-arms. Very interesting case indeed.

This, honourable senators, is the authority that is cited for disciplining, and there's a difference between disciplining senators and punishing, and I think we should be aware of that.

I shall quote the judgment in *Bradlaugh v. Gossett*. Lord Coleridge said at page 4:

What is said or done within the walls of Parliament cannot be inquired into in a court of law. On this point all the judges in the two great cases which exhaust the learning on the subject, — *Burdett v. Abbott* and *Stockdale v. Hansard*; — are agreed, and are emphatic. The jurisdiction of the Houses over their own members, their right to impose

discipline within their walls, is absolute and exclusive. To use the words of Lord Ellenborough, "They would sink into utter contempt and inefficiency without it."

Senators who pushed for the suspension rules always informed others that this power to discipline was found in *Bradlaugh v. Gossett*. I have always been dubious, because most house members' suspensions have often been about disturbances and like events.

Now, to look at the phenomenon of a member disturbing the house. Writers like Philip Laundy and Norman Wilding who, in their 1972 *An Encyclopedia of Parliament*, fourth edition, define "naming" a member at page 484:

If a Member of the House of Commons defies the authority of the Chair by refusing to withdraw offensive language or in some other way abuses the rules of the House, he can be directed by the Speaker... to leave the Chamber for the remainder of the day's sitting. If the member refuses and is persistent in his disregard of the Chair, the Speaker refers the matter to the House...

Colleagues, as you can see, Laundy — and I'm coming to the particular 1641 fact, because I hear Senator LeBreton repeating it daily — grants the power to discipline. Laundy continues:

The practice of "naming" a member was first introduced by Speaker Lenthall (q.v.) in 1641.

Abraham and Hawtrey, in their 1964 *A Parliamentary Dictionary*, second edition, defines suspension from the service of the house at page 216, stating:

The punishment inflicted by the House of Commons upon a member who has been "named" by the Speaker —

Honourable senators, what I'm trying to say is that the suspension as it is used now as a way of tampering with our first duty to attendance, as a way of tampering with or altering the notion of life estate in office, which high office-holders have — is unconstitutional, unparliamentary and unprecedented. These particular motions, which are totally outside of the Senate's Rules are, to my mind, totally irregular. I would invite senators here to vote against this closure motion. There is no reason whatsoever for it. This matter should have been afforded more debate. Senators are responsible people, and the leadership on the other side has a duty to consider the fact that maybe there's something very wrong in what they are doing.

Honourable senators, we all know I am not supporting this motion, but I am aware that this government is very practised at not listening to me. It's a habit. For me it's all right, but I don't have the ear — maybe that's why I am independent — I don't have the ear of a Prime Minister the way so many members do, but this is the price I have paid for independence.

You know my background, Senator Meredith. We are descended of free coloured people.

We have not had those choices like others, but I would like to tell senators that they should vote with their own conscience. This motion, this whole process, is unconscionable. It offends every

fabric in my life, every thing I have been taught to believe in, human justice, due process, the right to answer.

I think Senator Wallace was correct in his analysis. The accusations of gross negligence have not been found. The case has not been properly made against these three senators, and the proper process was to bring their legal representation. I have watched these three senators. They don't have the ability to defend themselves legally.

Honourable senators, I invite colleagues to be free senators as the Senate was intended and to vote against this closure motion before us.

Some Hon. Senators: Order!

Hon. Hugh Segal: Mr. Speaker, colleagues, I rise to speak briefly on this time allocation motion. It is a motion from the government in the Senate to expedite the single motion dealing with all three of our colleagues, introduced by Senator Martin.

While this manoeuvre is not likely out of order in any way, and while the form of the one motion for all is itself, no doubt, within order, I think we are in the process of seeing an effort to bring a deeply flawed process that is both unfair and unbalanced to a premature end, and that is not in the spirit of due process.

The people of Canada who pay for this chamber and finance it with their hard-earned tax dollars have the right to answers about the processes and judgments deployed to find three members of this place in violation of spending rules. Canadians have the right to know the methodology used, whether the right rules were applied, whether they were applied fairly and whether the verdicts issued by the committee that did this work on all three are, as I believe, variously independent of the facts themselves.

A rush to judgment may be attractive for some, and I can understand the political pressures that exist in this process.

Colleagues, I make the case with great respect to all of my colleagues who take this event as seriously as I do and who are, I am sure, trying to weigh what is the right thing to do, that we in this chamber must not be about any rush to judgment or the trashing of reputations or, worse, interference in independent police investigations. Whatever else this chamber should be doing on this matter of discipline, we should not be doing that, and this time allocation motion forces us into that corner without any due process by which the matters might be considered in their fullness.

• (1630)

This motion is historic. There is no precedent with Senator Andy Thompson; that was a completely other matter. Senator Thompson was away for a large part of time when he should have been here. He was summoned to appear before a committee and refused to do so. He absolutely rejected an order of this place — he ignored it — and this place acted accordingly on that basis.

I'm not aware of any of our three colleagues who were ordered to do anything by a committee of this place or this chamber and who did not comply. However upset they may have been with the

fairness of the process, they did comply. So the Andy Thompson proposition doesn't shorten the debate because it's not actually a precedent for what we're being asked to consider.

As what we are asked to consider is historic, I do want to ask one or two history questions, which I will leave with my colleagues to reflect on in the best of faith: Did we resist the American invasion of 1812 to 1814 to surrender the principles of British jurisprudence here in this chamber, this week? Colleagues, I do not believe that's why we resisted that invasion.

Did Canadian Forces take Vimy Ridge almost a century ago for us to stand down in our defence of due process, equality before the law and under the Crown in this chamber, this week? Did Canadians land on Juno Beach to fight the ultimate arbitrary excess of Nazi Germany so that we would fail to defend the legacy of freedom and presumption of innocence for which they fought and died on behalf of future generations, and to do so in this chamber, this week? I believe not.

I would like to quote, with his permission, a portion of an email I received a few days ago:

To deny the rights of a citizen, whether a Senator or not, to be presumed innocent until proven guilty is not why I served 39 1/2 years in the Army to protect —

— my country. Major-General Andrew Christie, retired.

An innocuous procedural motion is not innocuous if it enables freedoms to be diluted and sentencing to occur before full due process.

That is what this time allocation motion does. As I cannot support the motion it seeks to advance in its present form, colleagues on both sides of the chamber will understand that I can't support the time allocation motion before us.

I urge senators on all sides of the house, from every part of Canada, from every walk of life, different backgrounds, different ages, to join me in opposing this time allocation motion. It is what we need to do if we actually believe in due process.

Some Hon. Senators: Hear, hear.

Hon. Catherine S. Callbeck: Honourable senators, it's with great disappointment that I rise today to take part in this debate on time allocation by the Conservative government.

I cannot understand why time allocation has been introduced in this very serious issue. This may be one of the greatest decisions this chamber has ever faced, with repercussions that will be felt for many years.

The obvious question is: Why are the Senate and Canadians being denied healthy debate on an increasingly important and serious topic? Time after time, this government seeks to limit debate and deny senators the right to be heard in Parliament, whether it is a huge budget bill, overarching crime legislation, the wheat bill or others, this government refuses to allow senators the time to speak their minds and share their very real concerns about the issues before us.

[Senator Cools]

This particular situation is no exception. For the past week, I have been receiving emails from Canadians, the vast majority of whom believe that due process is an integral part of our justice system. They are troubled about the impact of the Senate's decisions regarding the suspension of these three senators.

Many Canadians are following this debate in the Senate, and I'm delighted that so many people would take the time to express their views on these motions. Most of them are original emails. They are not form letters, so it's clear that Canadians are very passionate about due process.

I would like to share some of those emails with you. This one was originally sent to the Prime Minister and copied to me.

As a very proud retired federal public servant, someone who represented this country on delegations to one of the UN special agencies over a 25-year period, I feel disgusted at the apparent "kangaroo court" that is being attempted by your party's partisans in the Senate, with your apparent support. Regardless of the possible mistakes of the three senators in question and the limitations of the Senate as currently constituted, these senators deserve due process characteristic of our country. We need to be setting a good example internationally, not the least for our diplomats who have an important job to do, and this is not helping.

I would like to read another email that I received from an Islander that was sent to some Island senators.

I am a resident of Charlottetown, P.E.I., and feel an obligation as a citizen in a **democratic** country to voice my deep concern about vote to suspend the pay and benefits of the 3 senators, Brazeau, Duffy, and Wallin. Although I am in no way voicing my support of what the 3 senators in question are accused of doing as far as their expenses are concerned, I firmly believe in the concept of due process and being presumed innocent until **proven** guilty.

I have had many emails from Islanders. One wrote to me and urged that senators support the motions to suspend without delay. She was angry. She said that as an Islander she was upset and ashamed by what had allegedly happened.

So I answered her email. I explained my position and what is now occurring in the Senate.

She replied to my message, and I would like to read you what she said:

Thank you very much for your attention to this matter, explaining to me what the Senate is doing at this time. I appreciate it and must say I feel relieved that it is in thoughtful hands at present with you. Good thoughts are with you in the deliberations.

Canadians are fair, and they want to do the right thing, even when they are angry.

As I have said before, I am not defending the alleged actions of these three Senators. I have made that very clear. However, they do have a right to due process. This is Canada, and we believe in the fundamental right that a person is innocent until proven guilty.

I spoke in this chamber on October 25 in support of Senator Cowan's motion to refer this all to the Rules Committee, and I still believe that it should be sent to that committee, or any other honourable body.

• (1640)

My greatest concern at this point is that some senators who are lawyers have told us that suspending these senators might interfere with the ongoing RCMP investigation and could possibly prevent criminal charges from being laid in the future. We could find ourselves in a "double jeopardy" situation, and the RCMP may not be able to lay charges even if they want to.

We need to find out if this is correct before proceeding with the suspensions. A committee can hear from legal experts in this matter.

If there are grounds to lay charges, we need to be sure that the Senate's actions do not block them or interfere with them in any way. That is the last thing the Canadian people want. I can tell you that the last thing I want is to be responsible for preventing charges that could have been laid or interfering in any way with this investigation.

Every day brings new developments, new allegations and new questions, but day after day the questions remain unanswered. We need a process to get the answers to these questions. A committee, standing or otherwise, would be able to do that. The three senators involved would have the opportunity to defend themselves and have legal counsel, and other witnesses could be called to get to the bottom of all the questions that have been raised. I again urge senators to consider the motion to refer the issue to a Senate committee.

Once again, this Conservative government has seen fit to limit debate on an item it has brought before this chamber. Once again, like the omnibus crime bill or the omnibus budget bill, all senators are being restricted in their ability to adequately debate this motion that is now before us for consideration. I am deeply disappointed that the government is once again invoking closure on such a serious issue.

Hon. Grant Mitchell: Colleagues, I, too, rise to express my disagreement with this closure motion and to establish that I certainly will be voting against it. I said in my previous comments in this debate some time ago that I think it's safe to say that everybody in this Senate today wants to fix its reputation, wants to elevate us in the estimation of Canadians' eyes, and that there is much substance, much history, much tradition, much accomplishment from this Senate over the 146 years of its existence that would warrant that elevation in Canadians' eyes. But at this moment specifically, Canadians are watching what we do right now in making an assessment about the nature, in some senses the very soul, the very essence of this Senate.

I have no doubt, I will say again, that everyone here somehow wants to fix it and there is essentially a divide in how that would best be accomplished. One would be punishment of the behaviour of these three senators who are in question, a specific and in some ways a limited and small gesture, in fact, small in many different ways.

Another is due process. Step back for a minute and consider what a Canadian watching this debate over the last two weeks might be thinking about that question: How is it that senators are going to fix this problem, the problem of their reputation and the stature of this Senate?

Think about the fact that they have seen a process, engineered by the government side, that has fumbled from one rules fiasco to another rules fiasco, from separate non-government motions to an effort to change those to government motions that failed, to an effort to bring in a new motion that is no longer an amendment but strictly a single government motion.

Think about a Canadian watching that process and saying how is it that this Senate is governing itself in a process that is as important as this? One fundamental error of rules and of process after another within the Senate.

Then think about the fact that compounding that which has appeared as clearly to Canadians as a rush to judgment is that with this particular closure motion they want to add rush to the "rush" in "rush to judgment." We have all heard from Canadians over and over again in many emails and letters read in this chamber today that they are looking beyond the specifics of punishment to the larger, broader, more elevated issues of due process, the rule of law, rights, the Charter of Rights, much more elevated views of the world. It seems to me very clear that by saying the only thing that can be done to fix this problem now has to be done immediately and it has to be punitive and it has to be without due process is to really demonstrate a fundamental lack of faith in Canadians.

Senator Callbeck said it so well. Canadians understand that you gain very little in acting in haste no matter how angry you are. It is in some sense an anger shared amongst many Canadians to deal with what appears to be the specific problem, but if we punish in haste, then we will simply compound the problem that we are trying to solve, and that is to re-establish fundamentally the respect of Canadians for this place.

The risks are huge; the stakes are huge. Up until two weeks ago tomorrow, up until the government brought in the first of its many motions, Canadians were judging the behaviour of three or four senators, period — individuals. Since that time, they have been judging the manner in which this Senate conducts itself. Those are two fundamentally different questions; important, but perhaps not even equally important. I would argue they are not actually equally important. The way we conduct ourselves as an institution will be the way we will be judged. The way we conduct ourselves as an institution against the measurement, against the judgment of the behaviour of three or four senators, will be what will be remembered and what will have the true impact on people's assessment of this Senate and how it conducts itself.

[Senator Mitchell]

It's very important that we understand that this motion simply compounds the ineptitude, in some senses, and the lack of a higher level philosophical approach and ideals approach to this question that Canadians understand implicitly.

They will also in this context ask the question: Why the rush? There is an alternative. We can simply hand this off to the Rules Committee as proposed in an amendment by my leader, Senator Cowan, and that would give us a chance to deal with this in a concerted and careful way with people who can study the specifics. It would give us a chance to give due process to these three senators specifically in question now, due process being appearing with their counsel, questioning their accusers and cross-examining the auditors to get to the root of it. It would also give us a chance to await further detailed research and investigation results from the RCMP.

I was struck by what Minister Kenney said this weekend. At some point, Nigel Wright will tell his story. It might be that Nigel Wright has something relevant to say that we have yet to hear that could impact how we evaluate what these three senators have done.

In the case of Senator Duffy, for example, he claims that he was given advice, and certainly Senator Wallin as well, by the PMO that whatever they were doing was okay. Perhaps Nigel Wright has a legal opinion that would be every bit as credible as the auditors' opinion to the contrary.

• (1650)

It isn't as though we need to rush. Of course, the government wasn't in a rush to do anything three or four months ago and all of a sudden is now.

I'll close by saying it isn't lost on Canadians. I have had many of them say to me, "This is all about politics."

The timing is just too suspicious. Why do we have to do this two weeks before the Prime Minister had to face his base in Calgary, or a week and a half before? Why was that the case? What was the rush? What is the rush now especially?

We will rush to judgment, and the judgment won't just be a judgment that we will make of three senators inappropriately without due process. The judgment will also be how Canadians will view what it is that we have done so inappropriately if we haven't done it with due process.

Hon. George Baker: Mr. Speaker, I rise to give just a very brief argument regarding what the mover of the motion said in referencing repetitiveness of argument. I disagree.

A brilliant argument was made in this chamber by Senator McCoy. Senator McCoy, a former Alberta government cabinet minister, a brilliant lawyer in her own right, stood in this chamber and put forward the proposition that what happens in disciplinary proceedings in law societies and in any other society that protects

professions is that when a matter such as this comes before the society in a disciplinary tribunal hearing, the matter is then stopped and they allow the police to investigate.

I want to briefly quote case law that backs this up. It is a case in which a senator was allegedly given \$100,000, and the charge was against either the law society or the senator under section 121 of the Criminal Code. That's breach of public trust and fraud on the government.

The superior court of Saskatchewan, in *Stromberg v. Law Society of Saskatchewan*, 1996, 36 Admin. L.R. (2d) 181, said as follows:

It is not in the public interest to permit the successful prosecution of crime to be imperilled by disciplinary proceedings that can impose only disciplinary sanctions for conduct that is criminal in nature.

Nor is it in the interest of the public or members of professional societies that disciplinary tribunals be permitted to determine whether conduct alleged to be a crime has been established on the part of a member or other individuals. To do so is to deny such persons the basic rights and procedures accorded to them under the criminal law.

Further on:

In the Phillips case... Cory J. noted that the Attorney General for Nova Scotia frankly acknowledged that if the public inquiry was allowed to proceed it might, due to Charter considerations, jeopardize or frustrate the subsequent successful prosecution of any crime discovered.... The Law Society in the case before me took a somewhat similar position and acknowledged that if the disciplinary proceeding before me is allowed to proceed, it has a similar potential to jeopardize or frustrate any subsequent criminal proceeding that may be taken.

Further on:

To put it another way, if the dominant feature and focus of a proceeding is professional discipline, the professional misconduct can be investigated and determined without characterizing it, directly or indirectly, as a criminal offence. If, however, the professional misconduct is characterized as "unbecoming" because it constitutes a specific crime not yet determined by the courts, the dominant feature and focus of the proceeding is likely to be found to be a substitute police investigation. Such a proceeding is a matter for the police and the criminal courts.

Further on:

The net effect, focus and dominant feature of the proceedings in the case before me, whether intended or not, has been and will continue to be whether Senator Bertson, Cameco or Stromberg committed acts in the nature of frauds on the government which are prohibited by s. 121 of the Criminal Code. As such the proceeding is in pith and substance a substitute police investigation and not a disciplinary proceeding.

That has been repeated time and again in case law. That is the law in Canada.

So if it is not a disciplinary proceeding, as Senator McCoy had alleged in her speech, then what is it? Some of us believe that it then becomes what our Charter of Rights and Freedoms has in the section called "Proceedings in criminal and penal matters," and it triggers double jeopardy. I quote:

(h) if finally acquitted of the offence, not to be tried for it again and, if finally found guilty and punished for the offence, not to be tried or punished for it again.

According to section 610 of the Criminal Code, where an offence substantially of the same offence is charged again, it shall not stand.

Now, we referenced this before, and Senator Nolin had pointed out correctly what McLachlin J. had said, and I'm quoting from *Winters v. Legal Services Society* [1999] 3 SCR 160 at paragraph 50:

McLachlin J. writing for the majority applied the decision of Wilson J. in *R. v. Wigglesworth* —

Which Senator Nolin quoted.

In that case, it was held that if a proceeding is to be barred by s. 11(h) the proceedings must, by their very nature, be either criminal proceedings or result in punishment which involves the imposition of true penal consequences.

And if you go to Wigglesworth, what does it say? At paragraph 24, Supreme Court of Canada:

In my opinion, a true penal consequence which would attract the application of s. 11 —

Double jeopardy.

— is imprisonment or a fine which by its magnitude would appear to be imposed for the purpose of redressing the wrong done to society at large rather than to the maintenance of internal discipline...

Well, is this a fine that is being imposed or a monetary punishment being imposed for the purpose of redressing the wrong done to society at large rather than to the maintenance of internal discipline? Look at the heading of this motion we have: To protect public trust. It's the same purpose, so it could be argued, as Senator McCoy began in her speech and addressed in a motion that was not debated here, this in fact, according to established case law in our superior courts in the provinces, if it is a disciplinary proceeding as the house leader says it's a disciplinary proceeding, and he used the law societies as his example, and if we abide by the superior courts' judgments, this is not a disciplinary proceeding. The logical conclusion to that, if it is not a disciplinary proceeding, then it's a proceeding that's captured by section 11(h) of our Charter, and that is double jeopardy. Senators, I believe that if ever a criminal charge is laid

against any of these senators, the first argument by the defence will be double jeopardy, and they have a pretty good chance of winning that.

Thank you, honourable senators.

Hon. Terry M. Mercer: Honourable senators, this is a troubling debate for all of us. It is not something we want to do. We want to get on to talk about government business. The Deputy Leader of the Government in the Senate has commented several times that we have not debated any government bills, or even the Speech from the Throne. I've been sitting here now for about a week with my speech in reply to the Speech from the Throne on my desk, waiting to get to it. I think it's a pretty good speech, and I think you will all — well, I think the people over here will enjoy it, maybe not so much the people on the other side.

However, the Prime Minister stood up in his place in Calgary and said that we were holding this up. We were holding things up. Well, you know, we're not holding any government business up because you haven't called any government business. We whip through the Order Paper. We're moving so fast that I'm going to get whiplash if we continue to do that.

• (1700)

I have been clear from the beginning: I am not defending the actions or the alleged actions of our three colleagues. I'm defending their right to due process. I want to know that everybody in this country has the protection of due process. Therefore, if people in one of the highest bodies in the country, in the Parliament of Canada here in the Senate Chamber, are denied due process, what about the fishermen on the wharf in Lockeport, Nova Scotia? What about the farmer in Saskatchewan? What about the dairy farmer in Quebec? What about somebody working in the General Motors plant in Oshawa? Are they going to be protected by due process? If the people in this chamber are not protected by due process, then why not them? Why can't we say "notwithstanding any other laws" we will ignore their due process?

I'm not a lawyer, and many in our society across the country are happy that that's the case, but I am someone who has spent a lot of time working with an awful lot of good, dedicated people across the country trying to solve some of the problems of society. The people who have written to me and phoned me have all said if these people are guilty they want them punished and punished severely, but they don't want them punished without due process. They don't want them punished without having their day in court, whether that be in a court of law, before the Rules Committee, before a special committee or before some venue where they can present their arguments, face their accuser and challenge their accuser by calling witnesses and cross-examining. They should have the right to counsel in the room and their counsel should have the right to give advice and perhaps even speak for them and on their behalf. This is fundamental.

I've heard from people I've known for years who are not political. I have no idea about their political backgrounds. They have come up to me in the streets of Halifax, or in the local store in Mount Uniacke, Nova Scotia, and have told me that we've got to do the right thing here and give these people due process.

[Senator Baker]

My response to them all along is that I have to vote against the government's motion to punish these people before they've had their opportunity and their say. If these three senators are guilty, then they do need to be punished. We may find out what their punishment is through the legal process or through the recommendation of charges by the RCMP. All of that will come out.

In the meantime, honourable colleagues, we have a responsibility to the people we have been sent here to represent in our regions and provinces. We are here to offer sober second thought, and sober second thought does not come by rushing through these motions. That will have the effect of inflicting the penalty before we've had the trial.

Honourable senators, I urge all of you, on both sides of this chamber, to please vote against this motion by the government on this issue.

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

Some Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Martin, seconded by the Honourable Senator Marshall:

That, pursuant to rule 7-2, not more than a further six hours of debate be allocated for the consideration of motion No. 5 under "Government Business", concerning the suspensions of Senators Brazeau, Duffy and Wallin.

All those in favour of the motion will signify by saying "yea."

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: There is a one-hour bell, so the vote will take place at 5 minutes after 6 p.m. It's an automatic one-hour bell.

• (1800)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters

Marshall
Martin
McInnis

Bellemare	McIntyre
Beyak	Mockler
Black	Neufeld
Boisvenu	Ngo
Braley	Nolin
Buth	Ogilvie
Carignan	Oh
Comeau	Patterson
Dagenais	Poirier
Demers	Raine
Doyle	Rivard
Eaton	Runciman
Enverga	Seidman
Fortin-Duplessis	Seth
Frum	Smith (<i>Saurel</i>)
Gerstein	Stewart Olsen
Greene	Tannas
Housakos	Tkachuk
Johnson	Unger
Lang	Verner
LeBreton	Wells
Maltais	White—51
Manning	

NAYS
THE HONOURABLE SENATORS

Baker	Jaffer
Callbeck	Kenny
Campbell	Lovelace Nicholas
Chaput	Massicotte
Charette-Poulin	McCoy
Cools	Mercer
Cordy	Merchant
Cowan	Mitchell
Dallaire	Moore
Dawson	Munson
Day	Nancy Ruth
Downe	Ringuette
Dyck	Rivest
Fraser	Robichaud
Furey	Segal
Hervieux-Payette	Tardif
Hubley	Wallace—34

ABSTENTIONS
THE HONOURABLE SENATORS

Plett	Wallin—3
Meredith	

• (1810)

MOTION TO SUSPEND THE HONOURABLE SENATOR
PATRICK BRAZEAU, THE HONOURABLE SENATOR
MICHAEL DUFFY AND THE HONOURABLE SENATOR
PAMELA WALLIN AND CONTINUE TO PROVIDE
LIFE, MEDICAL AND DENTAL INSURANCE
COVERAGE—SUBSIDIARY MOTION—
VOTES DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Martin, seconded by the Honourable Senator Marshall:

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;

Notwithstanding the provisions of this 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 the offices and personnel of the senators affected by this motion for the duration of a suspension;

That the Senate order:

- A. The suspension of the Honourable Senator Brazeau for sufficient cause, considering his gross negligence in the management of his parliamentary resources, until such time as this suspension is rescinded pursuant to rule 5-5(i), and such suspension shall have the following conditions:
- i) Senator Brazeau, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional allowance or living allowance;
 - ii) 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 his suspension;
 - iii) Senator Brazeau shall not receive any other benefit from the Senate during the duration of his suspension; and
 - iv) notwithstanding paragraphs i), ii) and iii), during the period of his suspension, Senator Brazeau shall have normal access to Senate resources necessary to continue life, health and dental insurance coverage; and

That the Senate order:

- B. The suspension of the Honourable Senator Duffy for sufficient cause, considering his gross negligence in the management of his parliamentary resources, until such time as this suspension is rescinded pursuant to rule 5-5(i), and such suspension shall have the following conditions:
- i) Senator Duffy, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional allowance or living allowance;
 - ii) 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 his suspension;
 - iii) Senator Duffy shall not receive any other benefit from the Senate during the duration of his suspension; and
 - iv) notwithstanding paragraphs i), ii) and iii), during the period of his suspension, Senator Duffy shall have normal access to Senate resources necessary to continue life, health and dental insurance coverage; and

That the Senate order:

- C. The suspension of the Honourable Senator Wallin for sufficient cause, considering her gross negligence in the management of her parliamentary resources, until such time as this suspension is rescinded pursuant to rule 5-5(i), and such suspension shall have the following conditions:
- i) Senator Wallin, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional allowance or living allowance;
 - ii) 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 her suspension;
 - iii) Senator Wallin shall not receive any other benefit from the Senate during the duration of her suspension; and
 - iv) notwithstanding paragraphs i), ii) and iii), during the period of her suspension, Senator Wallin shall have normal access to Senate resources necessary to continue life, health and dental insurance coverage;

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

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

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

The Hon. the Speaker: Honourable senators, there are now six hours of debate on the main motion. Normal speaking times apply, and no amendments, nor adjournment or other motions, except that a named senator may now be heard, apply.

Honourable senators, I just would ask: Is it agreed that we not see the clock?

Hon. Senators: Agreed.

The Hon. the Speaker: On debate, Senator Carignan.

[Translation]

Hon. Claude Carignan (Leader of the Government): Honourable senators, today, I encourage you to provide as much support as possible for the motion that Senator Martin moved in this chamber to suspend Senators Brazeau, Duffy and Wallin.

The decision to move this motion was a difficult one to make, just as I imagine it is difficult for some of you to vote in favour of it. I understand that.

However, the best decisions are not always the easiest ones, unfortunately. Taking responsibility when things get tough requires courage, but Canadians also expect us to put their interests first.

[English]

In this current crisis, we must put the interests of this institution above all else. This crisis demands setting aside our personal interests and putting first the interests of hard-working Canadians who pay their taxes and follow the rules.

[Translation]

How can one expect a repeat juvenile offender to respect other people's property and not to steal money from others if senators who have been fortunate in life pass laws that they themselves do not follow?

This is a serious issue because it calls into question the legitimate moral authority of this institution. If members of this chamber who commit wrongdoing continue to pass laws pertaining to morality and crime, it is not only the credibility of this institution that is at stake, but also that of the entire parliamentary system, which is bound by the bond of trust that must exist between the people and their institutions. The rule of "do as I say, not as I do" has never led to success or respect.

[English]

The decision to suspend also means putting aside all partisan interests. Unfortunately, during the past few days, some of our colleagues on the other side chose partisanship instead of the

greater interests of Canadians and of our institution. I ask them to restore Canadians' best interests and to set aside partisanship. We cannot ask Canadians to respect —

Senator Campbell: Go eat some red meat!

Senator Carignan: — this institution if we do not respect it ourselves. If we use procedural rules for partisan purposes and try to benefit from the fact that senators made inappropriate claims, we become accomplices; we try to profit from serious and reprehensible acts of conduct; we disrespect Canadians.

Some senators opposite spoke from both sides of their mouths these past few days.

Senator Cowan: Stephen Harper.

Senator Carignan: First, it was clearly established by a committee composed of members from both sides of the chamber that the three senators clearly broke, over and over, the Senate's spending rules.

Senator Campbell: Who's next on the list?

[*Translation*]

Senator Carignan: Before it came to these conclusions, the Internal Economy Committee also requested an external audit of the three senators' expenses for an independent investigation. The auditors carried out a comprehensive investigation, taking the time to meet with the senators and give them the opportunity to dispute the facts in the report. The Deloitte reports were given to the three senators in advance, were examined by the Internal Economy Committee and were supplemented with the evidence collected by the committee, which included the three senators' statements. The reports were sent back to the Senate and were approved by members on both sides of the chamber, including Senator Brazeau and Senator Duffy. All of the senators in this chamber — Conservatives, Liberals, independents and even those who were the subjects of these reports — had the opportunity to speak to the reports. The Senate and/or the Internal Economy Committee almost unanimously acknowledged that these senators had violated the rules and concluded that their actions warranted a criminal investigation by the appropriate authorities.

[*English*]

Over the past few days, honourable senators, we heard speeches from the senators opposite as they attempted to defend the indefensible. On one hand, they recognized that some senators committed serious and reprehensible acts of conduct.

Senator Campbell: You could be next, senator!

Senator Carignan: And on the other hand, they used due process arguments to extend debate, even though I believe strongly that all rules of fairness of this chamber have been respected.

Let's take this logic even further. The doctrine of due process is based on the absence of any and all bias before hearing the different points of view. How, then, in the same speech can we

plead for the respect of due process and, one sentence further, condemn the reprehensible and irresponsible acts of conduct of three senators?

• (1820)

These two statements, which some senators opposite made in the same speech, make no logical sense. The only logic is brutal and demeaning partisanship in order to prolong the debate to the detriment of Canadians' interests.

Some senators on the other side had promised that they would extend the debate as much as they possibly could, at least until our party's convention last weekend.

Senator Comeau: Shame.

Senator Carignan: Well, partisan mission accomplished, dear friends, but at what cost? To the detriment of whom and to the advantage of whom? The great losers of these shenanigans are the taxpayers who paid our salaries and those of the support staff during these extended sittings.

Senator Mercer: You introduced the motion. Give me a break!

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: Honourable senators, this is an extremely difficult debate for all honourable senators, and so I simply ask that we have custody of the tongue when an honourable senator has the floor.

[*Translation*]

Senator Carignan: This has hurt the honour and dignity of this institution, which has been in the headlines for months as a result of these scandalous allegations. This has also hurt the three senators themselves, who have seen their wrongdoings raised over and over again in the media.

Honourable senators, those who recognize this partisanship in their own actions must stop using these tactics. Put Canadians first. Condemn irresponsible behaviour. Many of you run businesses. Many of you advise businesses. You would never have waited six months to dismiss an employee who exhibited such behaviour towards you or your company. You would never have waited for a criminal investigation for fraud before dismissing one of your employees.

[*English*]

If one of your employees had appropriated only one tenth of the money involved here, you will have fired him on the spot. Canadians do not have fewer rights than the three senators, Duffy, Brazeau and Wallin.

[*Translation*]

As I have already said and will say again, taking money illegally with the stroke of a pen is just as depraved as doing so at knifepoint.

[English]

I invite you to treat Canadians with the same brand of respect you would expect and stop the tasteless partisan politics. Prolonging the issue has meant hurting the reputation of this institution.

Senator Cowan: What about Harper?

[Translation]

Senator Carignan: If you respect this institution as much as it deserves, you will stand in support of this motion. Stand up on behalf of Canadians and condemn these gross and irresponsible actions. Condemn this gross negligence committed by our three colleagues.

Help us restore the prestige and honour of this institution.

[English]

During the next few months we will have a very important mission. Our institution will have to regain the trust of Canadians. It will have to demonstrate that it's useful and responsible. We will have to demonstrate that we deserve the confidence which we were given when we were appointed. We must demonstrate that we, all of us, are part of an institution which acts in the sole interest of Canadians.

Without a powerful vote in favour of this motion, without a loud and clear message showing that we are taking our responsibilities, this mission, honourable senators, will be impossible.

[Translation]

Without a powerful vote in favour of this motion, we will lose all credibility. If we do not suspend members who commit wrongdoings, Canadians will judge us very harshly. They just might forget the exceptional quality of the senators who make up this chamber. They might forget this institution's great achievements throughout history. They might forget that we are loyal, honest people of integrity. They might increasingly insist that the Senate be abolished.

[English]

In so doing, by refusing to take our responsibilities, by refusing to put the interests of Canadians first, by refusing to condemn reprehensible acts of conduct, we will have, ourselves, taken the first steps toward abolition instead of reform. We will have, ourselves, launched its agony instead of its modernization. We will have, ourselves, attracted great disrespect.

[Translation]

Honourable senators, from the time I was a young child to the day I was appointed, I never dreamed of being appointed to the Senate. I never dreamed of having the privilege of being

[Senator Carignan]

appointed Leader of the Government in the Senate. I never dreamed of making speeches apologizing for this institution. When I got here, I met honest and intelligent men and women from various cultures and backgrounds who cared about improving the well-being of Canadians. I am sure that we all agree on that.

Honourable senators, the problem is that if we do not take responsibility, only the people in this chamber and a few people very close to us will agree with that sentiment.

[English]

Because we will be guilty by association, refusing to condemn reprehensible acts of conduct, defending the indefensible, makes us guilty by association. I urge you, honourable senators, to distance yourselves from such acts of conduct, to condemn them, to send a clear message to Canadians that you do not approve and that this chamber is made up of people of integrity, honesty and dignity. We have one sole objective: putting the interests of Canadians first.

Hon. Anne C. Cools: Honourable senators, I've been hoping that Senator Carignan would answer and address the large questions in respect of the motion moved, the motion that is before the house.

I appreciate everything else he has said. I appreciate his strong feelings, but I still want to know why it is that Senator Carignan and Senator Martin could not use the Senate suspension rules in the instance of these three senators.

I also want some explanation, Senator Carignan, which I still have not received, as to why you think that one motion should have one, two, three, four, five "notwithstanding" clauses, or parts of it.

Why did you find the Senate Rules so deficient to the job as to suspend all the rules in general? In particular, why did you choose to suspend the Senate suspension Rules?

I really want some answers, Senator Carignan. Maybe the emotional statement is very nice and useful, but I am not a partisan so it doesn't have any effect on me.

I really want to understand the legal and constitutional ground that you stand on for this motion, because you stand on nothing in the Senate Rules and you stand on nothing in the Constitution Act. I really want to know. I think that people who think and who study and who read and who have concerns for due process deserve answers, and I would like to hear them.

• (1830)

[Translation]

Senator Carignan: I would like to thank you for your question, Senator Cools. In the past few days and weeks, I have spoken at length in my speeches about the different elements that give us the authority to discipline our members. This authority has rarely

been exercised. If we want to restore Canadians' trust, we must accept our responsibilities and not sweep the dirt under the carpet.

All too often, difficult decisions have been postponed, and this has somewhat alienated people from our institution. In the other place, elections every four years mean that the people can punish inappropriate behaviour that is much less serious with much harsher sanctions. That is when voters administer the ultimate punishment. In the Senate, we do not have this type of judgment; we must assume our responsibilities and punish inappropriate conduct ourselves. In recent days, I have gone into detail about what occurred, and I do not wish to go over each and every element again. However, I do wish to point out that if we want to maintain Canadians' respect we have to respect them, and we must do what is required. I concur that these are not easy decisions to make. However, as I said, the easiest decisions are rarely the best decisions. After two and a half weeks of debate and discussion about the most appropriate sanctions, we must decide and vote out of respect for Canadians. The Senate will then do what it does best: examine bills and conduct studies that will lead to the development of Canadian policies so that Canadians' money is used for productive activities rather than the extension of futile deadlines.

[English]

Senator Cools: I thank the honourable senator for that response, but he hasn't answered my questions. I have been searching for this, because I have to tell honourable colleagues that I do not believe that discarding and abandoning all the Senate Rules to accomplish a particular deed shows any respect for Canadians.

I don't buy a lot of this, Senator Carignan. You can do a lot better. You're a good man. You can do a lot better. Some of this is not worthy of you.

I am looking to salvage the procedural ground and the procedural law that you relied on to bring this motion. I'll remind you guys: one, two, three, four, five notwithstanding. You have not withstood just about every rule. I have read every aspect of this motion and compared it to every rule in the Senate, and your drafters cherry-picked this from here and cherry-picked that from there, but the first observation that you make is that you rejected the Senate Rules because the Senate Rules weren't harsh enough for you. The result that you or whoever wanted was not possible by the Senate Rules, because the Senate Rules are very clear about distinguishing between accusations and findings. Your motion is extremely harsh and in violation of the *Rules of the Senate* and in violation of these senators' basic human, ordinary rights.

I don't like it, Senator Carignan, when you suggest that to disagree with you is to condone wrong. I reject that absolutely. I have never condoned any wrong here, and I never will, but I do condemn the violation of this institution's background, this institution's constitutional law, and this institution's processes and procedures.

I want you to tell us why every single procedure according to the Senate Rules could not be used. You rejected all of those. I really want to know, and I have not gotten an answer. You said

we have been talking for two and a half weeks. Well, I really want that answer. Thank you.

[Translation]

Senator Carignan: I answered that question on the second day of debate by addressing the disciplinary power that the Senate has under the Constitution and the privileges and the tradition of privileges passed on by the House of Commons of the British Parliament in 1867, when our Constitution was adopted, and citing the Parliament of Canada Act, our Rules, and particularly rule 15, which stipulates that the Senate may order a suspension where, in its judgment, there is sufficient cause.

Can you see how important it is that we realize we have to make a decision and stop delaying? After two and a half, three weeks of debate, I am still answering the same questions I already answered on the second day of debate on this issue. This is a clear sign that it is high time we made a decision.

Hon. Jean-Guy Dagenais: Honourable senators, I am addressing you today to express my deep disappointment at the events that have been debated in this chamber over the past two weeks.

When I was sworn in and started my work in the upper house, I was impressed by the decorum and especially the quality of the members of this chamber.

My perception has changed somewhat, as a result of the actions of our three colleagues who engaged in blatant misconduct.

The question we have to ask ourselves here today is whether we are doing the right thing in punishing three of our colleagues who violated the Rules of this chamber. Although this is not an easy decision, there are a number of aggravating factors that clearly show our colleagues acted inappropriately. I will not hesitate to tell you that yes, they should be punished, and severely. Certain truths seem implausible to us simply because we are not familiar with them.

I wish to draw your attention to five specific points that are at issue here: the monetary aspect, their understanding of the Rules, the damage done to our institution, their opportunities to be heard and the attitude they showed towards this institution and the public.

Without getting into the details of each case again, it seems obvious to me that three senators out of 99 did not understand how expenses work. Why are they blaming the administration? They had the opportunity to ask their colleagues, verify things further. As far as I am concerned, they committed gross negligence.

I have always thought that our role comes with its share of responsibility and that we have to be accountable for our actions. As far as the Rules are concerned, I seriously wonder whether the senators took the time to read the reference guide we are given when we arrive at the Senate.

The damage they have caused to this institution is great, and perhaps irreparable. The Senate has never been under such media scrutiny, and for all the wrong reasons.

The three senators have had ample time to be heard if they wanted and they were provided with the means, whether the Internal Economy Committee or Samson, Bélair, Deloitte and Touche. In the past two weeks, they have had the opportunity to be heard by this chamber. What we have heard are vengeful speeches instead of explanations that might have provided clarification and information related to the misconduct of which they are being accused.

• (1840)

Senators Duffy, Wallin and Brazeau showed a complete lack of respect for the institution, for all of us and for all Canadians, to whom they were accountable.

Our leader even tried to reach out to Senator Brazeau, and what was his reaction? He basically condemned Senator Carignan in what I believe was a pitiful speech we could have easily done without.

They did not show any remorse or any regret. Is that what we should expect from people who have been given the title of “honourable”?

They will tell you that they paid back the money, but in my opinion, that is an admission of guilt.

There is no excuse for their abuse of the system. They are well aware of that and that is why they never tried to apologize when given the opportunity to speak. Instead, they used that time to discredit our Senate and all senators.

I really cannot understand why some of you are still debating in this chamber to grant them privileges of which any self-respecting employer would completely deprive them.

Let me talk to you about the presumption of innocence. For two weeks, I have been listening to people talk about the presumption of innocence, when the three senators are facing internal disciplinary measures, not criminal charges.

I was a member of the board of directors of the Association des policières et policiers provinciaux du Québec for nearly 19 years. I held various positions on the board, including that of chair.

In accordance with our role, on numerous occasions, we defended our members under the disciplinary code, the code of ethics for police officers and the Criminal Code. A police officer who was charged under the Criminal Code was suspended with pay until the court rendered a decision. It was a completely different story when an officer was charged under the disciplinary code. The employer made the accusations and could even suspend the police officer without pay until he showed, on a balance of probabilities, that he had acted in the performance of his duties. I can tell you that the case was much more complex and often the police officer was dismissed immediately. When police officers were suspended, they kept their insurance and benefits. However, they had to pay for them.

What we have before us is a disciplinary matter that should be resolved internally. I am sure that my colleagues on the other side of the chamber understand the situation very well, and far be it

from me to think that they are engaging in willful blindness. However, I find it especially unfortunate that this debate will continue to fuel those who are calling for the abolition of the Senate. We should all stick together in this situation in order to show Canadians that we can govern ourselves properly and, at the same time, give them a better understanding of the political utility given to us by the Canadian Constitution. It is time we got on with the real affairs of state, which is why we are here.

I invite you to give serious thought to the decisions we have to make. Personally, I am here to defend the institution and not any individuals who exhibit questionable behaviour.

Should they resign out of respect for the institution and those who want to serve it? The answer is obvious. When the debate on these motions to suspend is over, I will be able to say with confidence that I acted for the well-being of our institution, and I will not be ashamed to use the title “honourable” that is associated with our duties as senators, duties that I will exercise with respect for the people of Canada.

To all those who object, ask yourselves if you will be able to do the same. I firmly believe that we must continue to tighten up the rules. It is our responsibility to preserve a culture of accountability.

The Senate and everyone in this chamber are the custodians of the rights of the regions, and to play this role, each and every one of us must behave in a way that is beyond reproach. The three senators who are the subject of the motions before us failed miserably in terms of their individual conduct and no longer deserve our trust or that of Canadians.

I do not understand senators who refuse to take responsibility so that we can be done with them and get back to doing our job in peace.

In conclusion, I will leave you with this quote from Jean-Jacques Rousseau:

To be something, to be himself, and always at one with himself, a man must act as he speaks, must know what course he ought to take, and must follow that course with vigour and persistence.

That is what I intend to do. Thank you.

Hon. Roméo Antonius Dallaire: Would the honourable senator take a question?

Senator Dagenais: Of course, Senator Dallaire.

Senator Dallaire: We come from similar backgrounds, and I am sure we could talk about disciplinary situations in which we relieved someone of their duties without pay. It is not the norm, but it does happen.

I would like to know why you chose this punishment instead of simply dismissing these people.

[Senator Dagenais]

There is not much difference. I have a hard time understanding why senators want to suspend them without pay, for what appears to be an unspecified period of time, without any process for returning, instead of simply dismissing them. What criteria do you think were used to determine this?

Senator Dagenais: If you are referring to my previous career, I can tell you that more often than not, individuals were unilaterally dismissed for internal management reasons. We are talking about 27- or 28-year-olds who had no income. We helped them find another job.

In this case, people are being suspended without pay until the end of the session. In two years, they will be able to receive their salary again.

The most difficult cases that I had to defend all involved internal disciplinary matters.

I will give you an example. Police officers were told not to use their work computers for personal use. Unfortunately, for reasons unknown, they did use the computers for personal use. These were the most difficult cases to defend. I worked with people who had five or 10 years' service and were unilaterally fired as a disciplinary measure. We must not forget that, in the case before us, the decision will apply for a determinate period.

I have no qualms about saying that I would have supported systematic expulsion. I believe that suspension for a determinate period is a less severe sanction and, at this point, I am very comfortable with that.

Senator Dallaire: Supplementary question. In your example of disciplinary action, could you compare your role and the union's role in defending or handling the case to what we are doing here?

Senator Dagenais: I will do better. I had cases where members submitted unjustified expenses and were fired. They were not allowed to return. I had to fire someone for gross negligence in filing expenses, as we say here.

• (1850)

I can tell you that they were indefensible cases. I have listened to everything that has been said over the past two or three weeks. I understand that the Senate has a self-governance measure; it is sovereign. I feel that the measures that have been taken and that we have been debating for two weeks are reasonable. That is why I have decided to speak up. Allusions have been made to my previous career, during which I had to debate similar cases, and those were the most difficult ones. I would say they were indefensible.

Hon. Céline Hervieux-Payette: I have a question for you, given your experience. Did you ever have to judge three people who did different things and decide to throw all three of them out at once?

That is basically what this is. You seem to think that we on this side did not vote on those June reports. Sanctions were handed down in June. Obviously, the first was to ask that the senators reimburse the expenses. The second sanction was to send the file

to the RCMP. I do not think we did the senators any favours by sending their files to the RCMP and making them the subjects of an investigation.

Did you ever come back three, four or five months later with a second sanction related to the same offence? That is what we are asking ourselves.

There is an expression: "one sentence fits all." That is tough to swallow. Senator Wallace spoke about that. The reports were written, punishment was meted out, yet here we are, months later, serving your leader's needs. Don't you think that we have already punished our colleagues?

Senator Dagenais: In answer to your question, there are three components. First, there is the repayment of expenses. I had cases, in my other career, where paying back expenses was required. Even then, if you were paying back the expense — and I mentioned this — it was because you knew it was not appropriate. If you are entitled to claim an expense, you do not have to pay it back. If you pay it back, it is because you understand that the claim was inappropriate.

We must also make a distinction between disciplinary and criminal offences. What I wanted to say — and I am referring again to my experience in my other career; I have no choice — is that I saw police officers who were charged with a disciplinary offence for using the police information service, the CRPQ. That was a disciplinary matter. In addition, the information was passed on to a criminal biker gang. Then they were charged with a criminal offence. The first penalty was being dismissed without pay by the employer, and the second penalty was a criminal charge, something that was totally different.

What we are seeing today, in comparison, is an internal disciplinary decision. With the RCMP investigation, which is something totally different, these people could be facing a separate criminal charge, as I said in my presentation.

The Hon. the Speaker: Order. The Honourable Senator Dagenais's time has expired; would the Honourable Senator Dagenais like to ask this chamber for an additional five minutes?

Senator Dagenais: Please, honourable senators.

Some Hon. Senators: Agreed.

Senator Hervieux-Payette: I would just like to point out that the Senate voted in June, after receiving the reports, that these people should repay the money. In the reports there were places — I cannot quote them from memory — where Deloitte said that the rules were vague. I presumed — and I am telling you this because you specifically said this was not a criminal proceeding — that these people had acted in good faith and that a person can be mistaken about the rules.

In my view, Senator Dagenais, what is important is that we ensure we do not condemn people twice on the basis of the same report and that we leave the criminal aspect to the RCMP. If it is appropriate, and if there is sufficient evidence, the Attorney General will file a complaint and there will be another process. At

that point, however, there will be three processes: the one in June, the one in November and finally the RCMP's investigation, and the three of them deal with the same actions.

This is why I am saying I find this complicated. I think we should explain to the general public, as well, that there was the decision in June; this is where we stop and the RCMP begins. What we are trying to tell you is that we do not believe that these people are absolutely not guilty, but they must be allowed to present their case before the courts.

Senator Dagenais: Senator Hervieux-Payette, I am going to tell you the same thing. You said yourself that the first thing we did was ask these people to repay those expenses. Let us say that it had happened to me. I would have been told: "Senator Dagenais, you claimed an ineligible expense." However, I believed that it was an eligible expense. First of all, I would not have paid back the money.

As I mentioned, the people involved decided to pay back the money, and that practically proves that they are guilty. Second, they are subject to an Internal Economy decision. And we are saying that, according to the Internal Economy decision, those people should be suspended until the end of the session. That is what we said. That is the decision of Internal Economy and it has nothing to do with the RCMP investigation.

I can tell you that when the RCMP has completed its investigation, those people will be found either innocent or guilty. If they are found guilty, there will be another sanction. You talked about three punishments. However, I would say that it is more a question of the unfolding of events and the ongoing outcome of their actions. They go hand in hand.

Hon. Pierre Claude Nolin: I have a question for Senator Dagenais. Is there any time left?

The Hon. the Speaker: Yes.

Senator Nolin: Senator Dagenais, a little earlier today you heard Senator Baker talk about a court decision that ordered a disciplinary measure to be suspended pending a criminal investigation. You just referred to your experience as a representative of a large police force. In that role, did you ever see disciplinary action taken before the start of a criminal process and not suspended because criminal proceedings were to begin? Did you see that?

Senator Dagenais: That is what I was trying to explain. Yes, I saw that happen. However we did not see the opposite happen.

Senator Nolin: You did not see the opposite happen?

Senator Dagenais: No. A police officer could face both disciplinary and criminal charges. The disciplinary action was not suspended while we waited for the criminal proceedings: it continued. Of course, if the police officer was later convicted of a criminal offence, we had to go back. However, I never saw a disciplinary action suspended.

[Senator Hervieux-Payette]

[English]

Hon. Grant Mitchell: I have a question, as well. Central to Senator Dagenais' argument is this idea that there is an implicit admission of guilt because each of the three paid back the disputed claims, but, of course, at least in the case of Senator Brazeau, that's not true because his pay is being garnisheed; he's not paying it back willingly at all. So that would certainly weaken the case in one third of these cases, underlining, would it not, Senator Dagenais, that in fact there are differences, and quite considerable differences, and that somehow ruling, as this Senate will be forced to do at this time tomorrow, on all three in the same context and the same way with one single outcome that they would all share simply isn't consistent with the arguments that you're making?

[Translation]

Senator Dagenais: I was expecting your arguments, Senator Mitchell, as I am aware that Senator Brazeau's salary was garnisheed. I was referring to our other two colleagues, who voluntarily made the decision to repay requested amounts. The fact remains that we have seen in all three cases people acting inappropriately over and over again. I do not want to revisit Senator Brazeau's case.

• (1900)

I am in the same situation as him. I also have an apartment here. I am staying more than 100 kilometres from my home.

I listened carefully to Senator Brazeau, who said at one point, I think, that the administration did not inform him that he was living perhaps 90 per cent of his time at his accommodations. However, I agree with you; he has not paid that money back voluntarily.

Let me tell you, if my pay was being garnisheed, personally, I would get a lawyer and I would fight it like the devil, to be sure. There did not appear to be too much reluctance on his part, either.

When you complete an expense claim for a legitimate expense, let me tell you, if I were told one day, "you are not entitled to this expense," I would ask for proof and I would not pay back a single cent; and if my salary were garnisheed, I would sue. I did not get the sense that Senator Brazeau felt the need to sue.

Hon. Marie-P. Charette-Poulin: Honourable colleagues, as we all know, for the past few weeks our parliamentary institution has been dominating the headlines in print, electronic and social media. All of us have received many passionate messages from Canadians, not to mention the telephone calls to our offices and our homes and the comments we hear every time we go out.

Like the rest of you, I would have preferred that we dominate the headlines for more constructive reasons than the current situation, but the controversy has given rise to an important debate in this chamber. Many senators have taken part in the debate on Senator Carignan's motions from the beginning.

The three motions were followed by a government motion moved by the Deputy Leader of the Government in the Senate, Senator Martin.

Several interventions are based on the Parliament Act, the Constitution of Canada, the Canadian Charter of Rights and Freedoms and the Criminal Code. Others asked important questions about the risk that these motions could interfere or be perceived as interfering with the RCMP investigations that started in late June 2013.

Therefore, I am just as uncomfortable with the government motion as with the three other ones. If these motions are adopted, the Senate could be accused of imposing severe punishment on three individuals while a process that is independent of the Senate, the RCMP investigation, is taking place, therefore interfering with or obstructing justice.

The motions raise several questions, including these: Are we not considered innocent until proven guilty in any administrative or judicial procedure? Could the motions have unforeseeable consequences? Will the motions have our colleagues suspended without pay prevent them from having access to a legitimate defence, if need be? Is suspending a senator without pay against the present Rules of the Senate? Are these motions contrary to the current practices in Canadian public agencies and private businesses?

[English]

Honourable colleagues, I am worried about the unintended consequences of the motion before us, should it pass. And I am greatly troubled by the risk we run of interfering with the investigations undertaken by the RCMP, two of which the Senate has put into motion and one of which the RCMP initiated.

It is obvious by the debate in this chamber amongst some very fine legal minds, some very fine public policy minds and some very fine business minds that we really cannot be certain how this motion might affect potential future criminal proceedings. As some have pointed out, there is a real risk of crossing the line.

Unfortunately, this debate is being held in a highly toxic environment. We are at a point where we don't trust each other, not even ourselves. And it is in this toxic environment that a comprehensive audit of all senators is being undertaken by an officer of Parliament, the Auditor General. Do we know whether or not the three senators who face potential suspension are going to be included in that process? If not, would it be because the office of the Auditor General does not wish to interfere with the RCMP investigation?

Honourable senators, please allow me to step back for a moment to recall, as some of you have, why each of us is here. Yes, let's identify our common ground. Each and every parliamentarian was greatly honoured to be invited to sit in the Senate. Each arrived in good faith to serve Canada. Each is offering his or her substantive personal and professional experience to the institution, to the debates. Many arrived representing a region and/or a minority language group and/or a minority cultural group.

All are involved in the review of tabled legislation and the development of public policy, some with private bills and inquiries. Many have become involved as parliamentarians with

issues that concern Canadians, including child soldiers, our veterans, young entrepreneurs, poverty, disadvantaged children, orphan diseases, the disappearance of Aboriginal women, consumer protection and interest fees in the finance industry, support for research and development, the arts, international trade, the environment in Northern Canada, bilateral and multilateral relations, Canadian content and broadcasting, amateur sports, professional sports and many, many more.

Keeping all of this in mind, I think we need to ask ourselves what is at risk here if we pass this motion. I believe we risk losing respect, self-respect, respect for each other and the respect of every Canadian. We risk jeopardizing the RCMP investigations. We risk being perceived as going against the rule of law, undermining the principles of democracy on which Parliament is based.

There has been considerable debate regarding the possibility that these motions could affect future criminal proceedings and the investigations currently being undertaken by the RCMP. We should respect the role and responsibilities of the RCMP as an important Canadian public institution. We, as members of the Senate, agreed to the independent review by the RCMP several weeks ago. We cannot rewind reality.

Honourable colleagues, as a member of the Ontario bar, I have taken an oath, and I take my oath very seriously. I would like to quote that oath, in part, to help you understand what governs my thinking with regards to this motion:

I shall not pervert the law to favour or prejudice anyone, but in all things I shall conduct myself honestly and with integrity and civility. I shall seek to ensure access to justice and access to legal services. I shall seek to improve the administration of justice. I shall champion the rule of law and safeguard the rights and freedoms of all persons. I shall strictly observe and uphold the ethical standards that govern my profession. All this I do swear or affirm to observe and perform to the best of my knowledge and ability.

• (1910)

Honourable colleagues, when I enter this chamber, I cannot leave my oath at the door. We have already set in motion a process by referring these matters to the RCMP, and I am confident that the RCMP will give them the serious consideration they deserve. I do not believe that we should be doing anything that might interfere or be perceived as interference with the RCMP investigations.

What we can and should be doing is putting in place measures that ensure this solemn institution is not placed in this kind of position again so that we may regain the respect of the Canadian public we serve — that this institution has a clear investigative process and a clear disciplinary process.

As the Speaker indicated in his ruling last week:

The debate has captured the attention of the Canadian public. It has provided information that was previously unknown or not well understood, helping us to better

appreciate the work that remains to be done to improve our internal administrative operations.

Honourable senators, let us look on this as an opportunity to preserve the integrity and the dignity of this institution and of the parliamentary process.

[*Translation*]

Senator Nolin: I have a question for Senator Charette-Poulin. From what I understand — Senator Baker referred to this earlier today — you were once the human resources director for a large corporation. Is that true?

Senator Charette-Poulin: You are correct. I was vice-president of human resources and industrial relations.

Senator Nolin: As part of your duties, did you ever have to take disciplinary action against employees who worked for you?

Senator Charette-Poulin: I thank you for the question, because I was hoping to be able to talk about that.

Senator Nolin: The answer is yes, then.

Senator Charette-Poulin: I would like to make a minor correction to your question. You asked whether I ever had to take disciplinary action. The answer is that there was a process. I experienced this very thing at a company where a number of employees were very public figures.

From what I remember, the investigation process was quite extensive. During the investigation process, if the company determined that the case should be handed over to the RCMP — I personally handed cases over to the RCMP — the employee was suspended with pay.

Senator Nolin: Was this suspension with pay a contractual obligation under the collective agreement?

Senator Charette-Poulin: That is a good question. I do not remember. We had 33 collective agreements. I do not know if that was in the collective agreement. I am sorry, but I cannot answer that question.

[*English*]

Hon. Percy Mockler: Honourable senators, I will first share with you that I was speaking to one of our colleagues earlier and his last comment was, “Percy, as difficult as this is, dealing with the Senate situation, what we have to do is the right thing.”

Honourable senators, I have heard many parliamentarians quoting former leaders in provincial legislatures and also here in the Senate. They have quoted former leaders like Winston Churchill, Sir John A. Macdonald, Louis St. Laurent, Kennedy, Thatcher, Mitterrand — and the list could go on — in their speeches to enhance a debate like we are having this evening.

[Senator Charette-Poulin]

I want to share with you what a very good friend of mine said on the weekend about his thoughts on what we call government. I will now quote my friend in order to partake in this debate. He said:

Governing is not for the faint of heart.

Governing has its highs... and Governing... has its lows.

Great Leaders are always tested, and they always need to make hard decisions... because they are required.

Great Leaders always rely on very strong internal values that serve to guide them.

We all know, that real values are not the kind of things that just show up on Monday mornings.

Real values are always engrained at a very young age and last for a lifetime.

Values... values always begin with one simple and powerful understanding... of knowing what is right... and of knowing what is wrong.

Honourable senators, the Senate has been in the eye of a sad storm and, as I take part in this debate this evening, I am reminded of two important principles that we, all of us as senators, have been expected to adhere to since we were sworn in. First and foremost, we've accepted to sit in this chamber to represent our respective provinces and our country's diversity and minorities. We've been expected to do so since Confederation, in a collegial fashion by showing respect for each other and for also our Rules of assembly.

[*Translation*]

Dear senators, when we were sworn in, we made a commitment to respect this institution, to be transparent and to distinguish between right and wrong. Indeed, most of us do so on a daily basis.

[*English*]

I believe that the issue at hand this evening is not one that should be governed by partisan politics but by the principles that we live by as senators, individually and collectively. We are appointed to serve to the best of our abilities and to do so with honesty and full compliance with the rules.

[*Translation*]

Unfortunately, some of our colleagues have been found to be in serious breach of conduct and have strayed from the principles that are meant to guide our conduct.

[*English*]

Unfortunately, some of our colleagues have strayed away from these principles and have broken the rules.

[*Translation*]

Therefore, we have the duty to discipline ourselves and to reprimand those of our colleagues who have not followed our Rules. The Leader of the Government in the Senate, Senator Carignan, has given us three options: the status quo, suspension and outright dismissal. The Leader of the Government in the Senate has proposed that we suspend our colleagues. In my estimation, this constitutes a middle ground between the status quo and dismissal.

- (1920)

[*English*]

Honourable senators, I have been listening to Canadians from all walks of life, and there's no doubt in my mind you have, too. From hard-working people in the agriculture and forestry sectors, to ordinary Canadians, to labour and business people, and to parliamentarians, former parliamentarians at both levels, provincial and national, they believe — and I've come to the same conclusion — that it is our duty as members of this chamber to ensure compliance to our Rules and to suspend our colleagues for their actions. Canadians, honourable senators, expect no less from us.

[*Translation*]

Nonetheless, the police and our legal system presumably have a duty to ensure that Canadian and provincial laws are upheld. We have the legal and moral authority to discipline our members. This motion in no way affects the judicial process that will run its course.

[*English*]

Honourable senators, our position reflects the commitment we've made, upon being sworn in to this great and august chamber, that we would adhere to the same standard that all Canadians adhere to. Canadians want us to respect our institutions, to demonstrate transparency, and to be able to differentiate from what is right and what is wrong.

[*Translation*]

We need to take discipline into our own hands at times. In so doing, we will take an important step towards modernizing and reforming our institution. Canadians will not accept a lack of action on our part. They are expecting us to impose a disciplinary suspension on the senators at fault.

[*English*]

Canadians, honourable senators, are pretty disturbed by the events that have led to this motion and to this debate. They expect us to fix what is broken and to reform and modernize our institution accordingly. Let's not forget that our present Prime Minister, Mr. Harper, is the only prime minister in the history of Confederation to have openly supported and pursued Senate reform aggressively and democratically.

Honourable senators, the Prime Minister of this incredible country that we are parliamentarians of issued us a challenge. He challenged senators, the custodians of this great chamber, to find a way to renew ourselves, to modernize and to reform this great institution.

Honourable senators, on this matter I can only speak for myself, but I want to share with you. Let me say that I accept that challenge and I wish to implore everyone in this chamber to accept that challenge as well — the challenge to re-establish the credibility, the integrity and the relevancy of this chamber — because I believe the Senate is a vital part of the governance model of Canada, of this country that has benefited today and in the past, and I believe in the future we must show leadership, as long as we provide and look and consider the comments made by the people that we represent.

[*Translation*]

As you know, our political system comprises three powers: the judicial system, the executive system and the legislative system. I strongly believe that Canadians trust our judicial system. They have faith in it. I also believe in our judicial system. If we suspend our three colleagues, we are not impeding the work of the judicial system. We have the power and moral authority to discipline our colleagues who are at fault. In the judicial system, one does not preclude the other.

[*English*]

As we know, honourable senators, our political system is made up of three distinct powers: the judicial system, the executive system and the legislative system. I firmly believe that Canadians have the utmost confidence in our judicial system like I do and, there's no doubt in my mind, like all senators do. However, by adopting this motion, we will not prevent or hamper the judicial system from pursuing the task at hand.

Senator Segal: How do you know?

Senator Mockler: We have the power and the moral authority and duty, sir, to self-discipline our members. They are two separate actions, complementary to one another.

Honourable senators, there's been a lot said and emotions have been very high, and I understand that —

An Hon. Senator: It ain't over!

Senator Mockler: That's what we call democracy, sir.

But I must share how disappointed and how much hurt I have felt over the last months. In my 30 years in politics, I have seen many highs and I've seen many lows, but I have to say that this matter before us has been very difficult. It has been emotionally draining for many of us, and it has pushed me to ask why? Why are we behaving this way?

I also, in that due process and in that due regard for democracy, was thinking of my family. I was thinking of the community where I grew up, and many of you know where I come from. I was also thinking of the people that I had the privilege of serving and

who elected me for six consecutive elections. I know what they think, and I know we have responsibilities vis-à-vis the integrity of the house that we call the Senate of Canada.

When I think and consider all the implications of the motion before us, a level of resentment which I can't even begin to describe comes to the surface. Honourable senators, I must say that I resent deeply and I'm saddened beyond words by being put in this situation by people whom I respected and trusted. However, I will be guided by my conscience and nobleness —

[*Translation*]

As we say, noblesse oblige. My position demands it of me.

[*English*]

And my conscience, honourable senators, is clear. I will therefore vote in favour of our leader's motion.

[*Translation*]

Yes, I will vote in favour of the motion moved by my leader, Senator Carignan.

[*English*]

Senator Comeau: Good speech!

Hon. Claudette Tardif: Honourable senators, I rise to speak on the omnibus sanction motion before us, imposing additional sanctions on three senators.

This government measure essentially bundles in one motion the same elements of the three non-government motions proposed previously by Senator Carignan. Although the motion does not change the proposed sanctions, it does demonstrate some compassion by allowing the three senators, if they were suspended, to continue to receive the benefits of health, dental and life insurance.

That being said, this new government motion does not change the fact that we are still being asked to pass judgment without due process. It does not change the fact that three senators will not be granted their right to a fair hearing, their right to legal counsel and their right of cross-examination. It does not change the fact that this is not a process that ensures that the sanctions applied are fair and appropriate. And it does not change the fact that we are still awaiting the results of RCMP investigations.

Honourable senators, we need to uphold the fundamental principles of fairness and justice, as well as the dignity and reputation of the Senate.

• (1930)

Not only does this government motion not address this issue, but in a sense, in terms of procedural fairness, it is even more problematic than the three private motions proposed by Senator Carignan. What we have here are three different cases. How can

[Senator Mockler]

we even pretend that we are treating each person fairly, on the merits of their respective case, if we have to pass judgment on one broad motion that does not make any distinction between the different facts and circumstances in play? How can we act as the gatekeepers of good laws in this country if we cannot ensure that the right to due process and the rule of law are put in place before we pass judgment on some of our own? If the Senate chooses to ignore the right of Canadian citizens to due process, what message does it send to Canadian citizens?

Canadians understand the need for due process. I have received many emails on this issue from fellow Canadians, and I would like to read one that reinforces that particular point:

Canadian justice is based upon one underlying principle: The presumption of innocence until proven guilty.

There is little question that there are irregularities in the financial accounts of the 3 Senators in this matter, but there are too many other questions in the process of the Committee hearings, and other political interference to justify immediate expulsion without due process and a thorough investigation.

You must limit any penalties or suspensions until you've positively confirmed their level of guilt, of which there appears to be varying degrees. A blanket solution for all is patently unfair and reactionary.

Honourable senators, this way of proceeding is un-Canadian. It is not in keeping with the basic principles and values that Canadians hold dear. Each of the senators has the right to be heard individually and in keeping with the basic rules of procedural fairness.

[*Translation*]

Honourable senators, given the seriousness and the impact of the proposed sanctions, it is not reasonable to make a decision on this issue without obtaining all the relevant information required to reach an informed decision.

The RCMP is currently investigating allegations of criminal conduct. In my opinion, honourable senators, it would be wise to await the outcome of these investigations to avoid compromising the work of police authorities by imposing sanctions. I will stress principles that we hold dear and that are the very foundation of our institutions and our democratic and legal values, namely the rule of law, the presumption of innocence and due process, since what we do here today will have a significant impact on three individuals and on the reputation and dignity of this chamber. I am also focusing on these principles because the legitimacy of our entire chamber derives not only from the variety of interests it represents, but also the fairness and transparency of our legislative actions.

When there is abuse, we have the authority and the responsibility to take corrective disciplinary action, but we also have the responsibility to ensure that this action is based on facts that have been established and examined in a process that respects the rights inherent to the principles of justice and fairness.

We must seek an approach that will enable us to bring to light all the relevant facts within a procedure that respects the rule of law, the presumption of innocence and due process. These principles and the transparency they require help prevent any abuse of power. Otherwise, what is the point of having basic principles if we choose not to apply them when sensitive issues arise?

Is the rush to deal with the motion to suspend three senators in keeping with these principles? Is it really in keeping with the desire to maintain the dignity and the reputation of the Senate? Or to ensure that the highest standards and ethical principles are applied? Or is it a question of dealing with these matters as quickly as possible in order to quash a source of embarrassment for the government?

[*English*]

Honourable colleagues, Canadians are most concerned that due process be carried out, that the rule of law be allowed and that we respect the basic tenets of fundamental justice. I want to give voice to the many Canadians who are worried and who are seeking answers and who have taken the time to express their thoughts on this matter. These citizens have the right to be heard, and we are duty bound to listen. Let me quote further from emails that I have received:

In Canada, there is a presumption of innocence unless proven otherwise. I fear that if this presumption is not followed in the Senate, then not only will it set a precedent for all Senators, regardless of possible transgression, it will serve as a precedent for all Canadians to be found guilty before evidence to the contrary.

I am concerned about the speed at which the vote in the Senate is being hurried along. Please be the chamber of sober, second thought and give this issue the careful, honest deliberations that need to take place.

Please vote no to this dismissal without pay and vote for an open hearing as per this item of the Constitution: 15-4(5). For greater certainty, the Senate affirms the right of a Senator charged with a criminal offence to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal.

Another citizen writes:

I am writing to tell you that I am concerned with the government's attempt to suspend 3 Senators who have yet to be charged and convicted with any offense. I am not expressing support for any questionable behavior on the part of these Senators, but I am disturbed by the appearance that the government is attempting to rid itself of a problem with no regard for the presumption of innocence until guilt is proven.

I think there are a lot of unanswered questions in this whole sorry mess and I am dubious about what many of the principles are saying.

I have been a supporter of this government but I am not certain that these actions reflect my values.

Finally, in another email, another citizen writes:

I have been paying close attention to the "scandal" that has seized the Upper Chamber, and must confess that I am dismayed at the current proposal to suspend Senators Brazeau, Duffy and Wallin without due process. Although I do not condone their alleged improprieties for one second, I have even more serious concerns about finding them guilty solely on the basis of reasonable cause, and at the behest of the Prime Minister. Surely you have a moral obligation, if not a legal requirement, to remain independent from blatant political interference and to demonstrate a sense of wisdom born from "sober second reflection" in the manner in which you proceed. Even more seriously, you have a duty to uphold and protect the most basic tenet of fundamental justice — the presumption of innocence until proven guilty.

[*Translation*]

I read a few excerpts from some emails I have received, and I have received many other similar emails. I want to point out that many Canadians, and many senators, believe that there remain too many unanswered questions for us to decide whether the disciplinary measures we are debating are justified. Not so long ago, the government told us that because the disputed expenses had been repaid by some senators, there was no longer any wrongdoing to sanction, the matter was resolved and it was time to move on to other things. It told us that one of the senators in question was even showing some leadership and that the Prime Minister himself had reviewed another senator's expenses and did not have a problem with them.

After changing its message numerous times, after trying to shift the attention to other matters in order to make this go away, after several apparent changes in strategy, different versions of the facts and many rumours, today the government is trying to tell us that it is finally acknowledging the mess in which it has become mired by introducing its own motion.

As I said earlier, if the government seriously wants to resolve this matter fairly and in a reasonable period of time, the amendment proposed by Senator Cowan seems to me to make a lot of sense.

• (1940)

Honourable senators, we must ensure that we always respect these basic principles of justice and fairness.

Senator Nolin: Honourable senators, I have already spoken several times in this debate. I do not intend to repeat everything I said. Given the short amount of time I have, I will summarize what I said previously. I do not presume that you will indulge me in speaking longer than is my right.

There are three questions at the heart of this debate. We are at the climax of this long saga and we must examine the main motion. In my opinion, there are three questions to consider.

First, does the Senate have the power to suspend a senator? Second, why must the Senate take action? Third, why must the Senate act immediately?

His Honour the Speaker gave us the answer to the first question last week. With great expertise, he described the constitutional and statutory roots of the authority of this chamber. Near the end of his ruling, he concluded the following:

Section 4 of the *Parliament of Canada Act* thus provides the Senate with the same power to suspend a member. This power is entirely independent of and separate from any criminal measures undertaken by the relevant authorities.

This excerpt from the Speaker's ruling is very important. I would like to briefly describe the scope and magnitude of this privilege that we have. The Senate and senators have certain constitutional rights and immunities, described collectively as parliamentary privilege. As in the Parliament of the United Kingdom, the privileges that the Senate and senators have had for several centuries continue to play a vital role in the proper functioning of Parliament today. The rights protected by parliamentary privilege are those that senators need to carry out their parliamentary duties. They benefit from them on an individual basis because the Senate cannot do its work without their contribution. However, the Senate as a whole also benefits in order to protect its senators and its own authority and dignity.

The Senate's two main collective powers or privileges are its disciplinary power and its exclusive power to regulate its internal affairs. The Senate may impose sanctions on anyone, whether a senator, a staff member or a stranger who is found guilty of violating its privileges. The Senate's disciplinary powers are related to the control Parliament exerts over its own affairs.

Earlier today, Senator Cools said, after quoting some important authors, that the Senate's "jurisdiction over its members is absolute and exclusive."

These powers are absolute and exclusive.

I could not have found this reference. So, I thank her for offering it to us.

Honourable senators, these powers must and can only be exercised outside judicial control. I am saying this with all due respect for the opinion of our colleague, the Honourable Senator Baker.

The second question is why the Senate must act. I am not going to repeat the powers granted to the Senate under the Parliament of Canada Act, primarily to the Internal Economy Committee, because it would use up about 10 of the 12 minutes I have left. Instead, I am going to summarize these powers.

The Standing Committee on Internal Economy, Budgets and Administration is fully responsible for financial and administrative issues in the Senate. It enjoys the legal capacity of a natural person. It may make regulations governing the use by senators of the goods and services made available to them for the

carrying out of parliamentary functions. The committee sets out the terms and conditions of the management of and accounting of Senate funds. It may take any other measure that is necessary or incidental to the exercise of its powers. Finally, this committee has exclusive authority to determine whether the rules are followed.

While exercising these powers and functions, the committee is under the authority of the Senate and is governed by our Rules. Thus, the Senate exercises its parliamentary privilege to regulate its own affairs. In the exclusive exercise of its parliamentary privilege, the Senate has the power to discipline its members. The Senate imposes disciplinary, not criminal measures, and it looks at the facts. When I say the Senate, I am referring to the Internal Economy Committee and this chamber. It considers the facts. After debate, if it is convinced, based on a balance of probabilities, that one of its members violated the rules while demonstrating gross negligence in the management of parliamentary resources, ignoring the requirement to protect the dignity and reputation of the Senate and neglecting to preserve public trust and confidence in Parliament, the Senate has not only the power but the duty to suspend this member under the terms and conditions that it deems appropriate.

Why must the Senate act now? Honourable senators, for over six months now, the repeated mismanagement of Senate resources has been adversely affecting our reputation to the point of bringing opprobrium upon our institution. Canadians want Parliament to act efficiently while respecting their values and aspirations.

The activities of our chamber are paralyzed. Just today, the Honourable Senator Mercer reminded us that we were indeed paralyzed. Not a single bill is reviewed. Our debates focus exclusively on one issue: this infamous motion. And this situation will go on as long as we do not get our house in order and discipline the senators who are responsible for bringing disrepute to this place.

Under our Rules, government business takes precedence over any other business in the Senate.

The Leader of the Government, the Honourable Senator Carignan, has said repeatedly that Parliament does not enjoy the public confidence that would help it deal effectively with its legislative responsibility. He is absolutely right. It is urgent that that confidence be restored. Government Motion No. 5 is appropriate, and the measures that it proposes are fair and reasonable.

Honourable senators, I have a request. Motion No. 5 is complex, long and unique. It refers to the actions of three of our colleagues. However, it is just one motion.

• (1950)

In the past, in Parliament, in the other place, the House of Commons has been faced with this type of complex motion. At the request of a member, the Speaker used his authority to agree to divide not the motion, but the questions on the motion, in other words to have the motion adopted or negated by a series of votes.

Mr. Speaker, I am making this request because we are dealing with a similarly complex motion, which involves three of our colleagues about whom different facts have been reported, either in this chamber or before our colleagues on the Internal Economy Committee.

Mr. Speaker, would you like to hear more arguments on this issue or will you allow me to finish my text?

[English]

Senator Fraser: Your Honour, when Senator Nolin has concluded his remarks, I wish to raise a point of order on this matter.

[Translation]

Senator Nolin: Government Motion No. 5 is appropriate, in my opinion, and its conclusions are fair and reasonable. The Senate Standing Committee on Internal Economy, Budgets and Administration, exercising its exclusive jurisdiction, effectively discharged its responsibilities, and the senators who participated in the debate, both in committee and here in this chamber, have acknowledged this. No one questioned the quality of our colleagues' work before the Internal Economy Committee.

The committee both sought and obtained the external assistance required to properly carry out its duties. The results of this work are before us. These findings are damning. Senators Brazeau, Duffy and Wallin have had ample opportunity to participate in the discussions concerning them, either before the committee or here in this chamber.

Dear colleagues, we will come to an agreement. They had the opportunity to ask questions. Stop bringing up the right to counsel. I refer you to the Charter of Rights and Freedoms. The well-known right to be accompanied by a lawyer is exercised and recognized in very specific circumstances. I will even quote the Charter to make sure that all of my colleagues understand.

Section 10 of the Charter of Rights and Freedoms states:

[English]

Everyone has the right on arrest or detention

- b) to retain and instruct counsel without delay and to be informed of that right;...

[Translation]

That is what the right to counsel consists of. Stop going on about having a lawyer participate in Senate committee proceedings. That right does not exist.

Senator Segal: That is outrageous.

Senator Nolin: Perhaps it is outrageous. You can make the request. You can propose an amendment to our Rules, but for the time being, dear colleagues, that right does not exist, so let's stop all the rhetoric to the effect that we have that right. That right

does not exist. We have a procedure. It is ours. It has worked for us for 146 years, and if some people, including my colleague to my right, Senator Segal, wanted to one day introduce strangers, including lawyers, into parliamentary procedure, then I encourage him to propose it to us. We will debate it, and I predict that we will reject a recommendation that is so ridiculous and so devoid of respect for parliamentary law.

[English]

An Hon. Senator: What's next?

Senator Segal: How about the padlock? Lock up people because of what they believe in.

[Translation]

Senator Nolin: If my colleague, Senator Segal, lets me and respects my right, I will close by saying that these findings are damning. The three senators, Senators Brazeau, Duffy and Wallin, had every opportunity to participate in the debate concerning them, to question the statements and arguments they believed to be erroneous . . .

May I have an additional five minutes?

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Nolin: Thank you . . . both before the committee last spring and this past summer and in this chamber since October 22. All three used that opportunity.

We have a weighty responsibility, colleagues. It carries significant consequences. It is noble, and it is in keeping with the values defended by our founders, in keeping with the principles that guided their debate on creating this institution, and in keeping with our role. It is time to face up to our responsibility, vote in favour of suspending our three colleagues and protect the authority and dignity of the Senate.

[English]

The Hon. the Speaker: Honourable senators, in case there are questions and comments, for the time remaining on Senator Nolin's extra five minutes, perhaps we will hear that and then I will turn to Senator Fraser.

Hon. Nicole Eaton: Honourable colleague, I don't pretend to have your marvellous legal mind. I have listened very closely to the arguments these last days, and you have made very clear what our rights and privileges are. Why do you think some of our colleagues keep insisting on due process?

Senator Campbell: Because that's the Canadian way.

Senator Nolin: I'm so glad, Senator Eaton, that you asked me that question.

The Hon. the Speaker: Order.

Senator Nolin: First, the Charter of Rights specifically — and they wrote on that — refused to use the expression “due process.” Do you know why? Because it is an American concept.

An Hon. Senator: Oh, God protect us.

Senator Nolin: It is an American concept, and they decided that in Canada, we should not be strapped into the jurisprudence developed south of the border on the so-called “due process.”

Some Hon. Senators: Oh, oh!

Senator Nolin: What we have in Canada is what? The principle of fundamental justice, that’s what we have. That is our jurisprudence, not only since 1982, but way back in our history. So the courts have decided that, of course, we have fundamental rights, and the way Canada is protecting those rights is in order, proper. We mentioned through our debates in the last 10 days a few decisions from the Supreme Court, and they all came to one conclusion: Parliament and the Senate are supreme in their work and no one, including the court, can question the reason why it’s taking the decisions.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: Honourable Senator Fraser.

Hon. Joan Fraser (Deputy Leader of the Opposition): Thank you, Your Honour.

Although Senator Nolin’s remarks ranged over both the narrow grounds upon which my point of order is based and over the broader substance of this whole question, I reserve my right to speak briefly — I promise, colleagues — later in this debate on the general matter.

This is now a narrow point but, in my view, a very important point of order on his request that you divide the motion before us and allow for three votes on a single motion. This is a procedure, colleagues, that is foreign to the Senate. There are no precedents for doing this in the Senate.

• (2000)

I could argue on grounds of substance that we should have stuck with the original three motions, but the government decided not to do it that way. So here they are trying to import something that the House of Commons does, and even the House of Commons doesn’t do it very often. Nowhere in our rules is there provision for this kind of treatment of three votes on a single motion. Our Rules are quite clear: one motion, one vote. If there’s a motion in amendment, then you vote on the amendment, and then you vote on the motion as amended or not. You don’t hold three votes on a single motion.

Rule 1-1(2) does say the following:

In any case not provided for in these Rules, the practices of the Senate, its committees and the House of Commons shall be followed...

In the old days, we said *mutatis mutandis*, but I would observe that the first guide listed there is the practices of the Senate, then the practices of the committees, and only lastly those of the House of Commons or other equivalent bodies, as necessary.

The practice of the Senate in these matters is not to flail around holding multiple votes on a single question. The practice of the Senate is to divide the question. We have divided bills. I’m sure Your Honour will recall the tremendous debate involving legislation concerning firearms and cruelty to animals, which we divided, over the dead body of the government of the day, may I say, but we did it. That’s what we do. We do not try and shoehorn three into one. That is a divine prerogative, not a senatorial prerogative.

No one forced the government to present one motion to cover all three suspensions. There was no immediate, apparent necessity to do that. And as I observed, originally it was three motions. The government side had plenty of time to think things through, and you have to assume that they had their reasons for going from three motions to one, although I have not heard a reasonable explanation of those reasons. One speculates that the reason for doing it was so that the government could move to impose one time allocation motion instead of three.

Senator Munson: You think?

Senator Fraser: Yes, I do think. That may not be a matter of the rules, but I think it’s germane for our consideration of what we are being asked to do.

We are being told to treat this matter as a complicated motion. Well, it is, indeed, complicated, but not in the traditional parliamentary sense. This is not a motion that treats of wildly disparate cases, that tries to lump the Supreme Court in with the budget or engage in comparable gymnastics in terms of legislative action.

Let me tell you what O’Brien and Bosc say about complicated motions being divided in the House of Commons. It begins on page 562, and I quote, more or less:

In 1964, a complicated government notice of motion was divided and restated —

Which is the label they used for this procedure that we are being asked to undergo.

— when the Speaker found that the motion contained two propositions which many Members objected to considering together.

But that was then. Only two years later, faced with a similar request, the Speaker ruled against taking such an action, stating that:

... only in exceptional circumstances should the Chair make this decision on its own initiative.

So we were starting to clarify circumstances somewhat.

In 1991, in response to a request to divide a motion dealing with proposed amendments to the Standing Orders, the Speaker undertook discussions with the leadership of the three parties in the House...

And then he agreed to divide the motion for purposes of voting.

In 2006, the Speaker was, by the unanimous consent of the House, given the authority to divide any amendment to a motion... for voting purposes and after consultation with the parties.

A couple of common threads emerge here. One is that given how rarely it has been done even in the House of Commons, this should be done only in the most exceptional of circumstances. Another common thread is that, at the very least, consultations with the leaders of the parties should be undertaken, because that implies a certain level of consent and negotiation.

Well, colleagues, there has been no negotiation, no mutual discussion on this point. Information was delivered to me this morning by my esteemed colleague, the Deputy Leader of the Government, who informed me that a motion to this effect would be brought today. But that's not discussion; that's not negotiation.

And yet it's not as if, in the case of this motion, as in some of the other flailing around we've seen on this matter over the past couple of weeks, the government didn't have time to engage in discussion and negotiation with the opposite side. According to press reports, the Conservative caucus was told last week that this was going to be done, something we learned, as I say, through the media. Check *The Hill Times*.

Colleagues, this is no way to achieve mutual, cross-aisle consultation and consensus on what is a dramatic departure from the Senate's Rules and practices.

O'Brien and Bosc make another point:

When any Member —

— of the House of Commons —

— objects to a motion containing two or more distinct propositions, he or she may request that the motion be divided —

— which is what Senator Nolin has just done in this chamber —

— and that each proposition be debated and voted on separately.

Well, we can't debate each section of this motion separately. If Your Honour so rules, we can vote on them separately, but we certainly can't debate them separately. We're into time allocation. We have, what, four more hours? I've been assured that a point of order does not count as part of the six hours.

Under time allocation, we cannot amend the motion under discussion. Our Rules are very clear on that. But I would suggest that what we are being asked to do here is amend through the back door. That's not what we do in this place. If you hold a separate vote, it means it's a separate item.

We're being asked, in effect, while under time allocation, where amendments are not permitted, to amend this motion to allow for three separate votes.

I challenge the government to provide a single example from any Parliament in the world of a motion that is under time allocation being divided at this last stage for the purpose of votes only.

Our Rules are clear. Any rule can be suspended with leave of the Senate, but leave of the Senate is not being sought.

Instead, the government is attempting to use the rules, after a fashion, to impose a novel approach to something that we could already accommodate under the existing rules, or we could have accommodated it before time allocation was proposed. I have not heard, in fact, why splitting the vote on this motion and thereby departing from our own practice is actually necessary.

• (2010)

If you will forgive me, Your Honour, from your ruling of last week, which contained many extremely wise observations to guide us, I would like to quote just one. The ruling said:

All senators have an obligation to the long term interests of the Senate, to maintain the integrity of its traditions and practices, especially open debate within a clear structure, that have been hallmarks of the Senate since its very beginning.

It is possible that arguments may be found to justify the procedure which you are being asked to support, Your Honour, on narrow procedural grounds, but, colleagues, it's not something the Senate should do. And if we do it for this, believe me, we will do it for other matters. This is the kind of precedent that is just too delicious to be ignored, should we accept it. I hope you don't. I hope you will not.

The Hon. the Speaker: Honourable senators, I'm not unfamiliar with page 562 of O'Brien and Bosc, and I, too, read *The Hill Times*.

Honourable senators, I have received a request from the Honourable Senator Nolin. I thank the Honourable Senator Fraser for raising an issue of order. I will make a determination when we are at the point of putting the question to the house on the vote.

Continuing debate.

Hon. Joseph A. Day: Just for clarification, Mr. Speaker, you had a request, but there was no motion. There was no motion to be dealt with. I can make the request that we deal with half of the vote after six hours and the other half later on.

The Hon. the Speaker: Honourable senators, what the rules and the procedural literature say about this, and I agree with Senator Fraser, is that it is seldom that the Speaker is asked to divide a question, but from time to time it has been done.

So the Speaker does not take the initiative to divide a question, but a member of the assembly may ask the Speaker, when it comes to the point of putting the question, "Please divide the question," and it is at the discretion of the Speaker whether or not to do it.

I thank the Honourable Senator Fraser for raising the matter as a question of order, but the point right now is debate. We are not ready for the question. When we are at that point, I ask the house, "Are you ready for the question?" and the house says "Yes." I then ask the question, and I, or any Speaker have to be satisfied that the question being put to the house is fully understood. That is why sometimes, if there is a complicated motion, Speakers have — indeed, as recently as a few weeks ago in the House of Commons — divided a question. It would be at that point, when the question is put to the house. Obviously, I listened to the debate here as well. As long as we are satisfied that we know what we are voting on, and I think everybody is, there is no need to divide even the most complicated of questions. But if there is confusion, sometimes it is helpful. It is more a technique to be helpful to the chamber when making a decision.

Senator Fraser: On a point of clarification, Your Honour. So that we all understand the process, as I read rule 7-4(5)(c), if the vote on this motion is requested after 5:30 p.m., it stands deferred until the next day. I think we're past 5:30 p.m. Is my understanding correct?

The Hon. the Speaker: Yes. The Honourable Senator Day on debate.

Senator Day: Yes, Your Honour. Thank you for the clarification.

Hon. A. Raynell Andreychuk: Could I have a clarification? I want to be absolutely certain that the request was not to divide the motion, but a request for the purposes of a vote in three. Am I correct in my understanding of the request?

The Hon. the Speaker: Yes, that's what I understood.

Senator Andreychuk: Thank you.

Hon. James S. Cowan (Leader of the Opposition): The criteria you would apply to this, Mr. Speaker, is whether or not you would divide or separate the vote if it was necessary to do so in order to make sure that members understood the issue. If there was no need, if the motion was clear and there was no need to divide for clarity purposes, then you would not divide. Is that correct?

The Hon. the Speaker: Correct.

Senator Cowan: Thank you.

Senator McCoy: So it's like having three motions?

The Hon. the Speaker: That's right, but we are anticipating quite a bit. We're still at the debate stage.

Senator Day: Thank you for that clarification. It's another one of those special features of this particular debate that has been ongoing now for two and a half weeks, three weeks, but the point was made earlier on that we, in this particular motion, just started this last Thursday. That's the first point that I would like to make. There is no reason why the Leader of the Government in the Senate should assume that all of the debate on the three previous motions that were non-government motions, those three motions that we had debate on over a considerable period of time, there's no reason to assume in the future that those debates would be looked upon in reviewing the Senate's deliberation in this particular motion. That is the reason I believe that closure is wrong with respect to this and it was a decision that we should not have made.

I agree with my honourable colleague Senator Wallace that there are too many issues that need to be aired in this chamber. We've heard them with respect to the three motions, but those three motions historically, if somebody looks back on this, aren't going to say, well, there was a motion here with three parts to it but there were also three other motions, and we go back and read the debate on those. That's not going to happen.

So I believe, honourable senators, that if any of us have any point that we would like to make, we shouldn't say, "Well, I've already made the point" — like Senator Nolin who said, "I'm going to give you a resumé of what I have already said," because he understands that that's all that's going to be looked at with respect to this particular motion that's before us that we now have closure on and we're into the six-hour debate.

Honourable senators, what I've tried to do is listen to all of the debate and I'm always looking for common themes, looking for an opportunity for some possibility to reach a consensus on some of the issues. I have to say that there are many points that have been made on both sides of the chamber that I agree wholly with. I agree with the points that have been made, and Senator Mockler just made a number of points that I agree with. The problem is, I don't agree with the conclusion that he came to based on an analysis of those points, and I think that's the difficulty, honourable senators. We can all talk principle, but, when you apply the principle to the facts of the situation, then we come to different conclusions.

None of us, I think, is trying to be overly partisan in relation to what is being discussed here. We all recognize the tremendous importance to certain individuals, the three honourable senators who are named in this motion.

• (2020)

We all understand the impact of that, but we also understand the obligation that we have. We're being asked, in effect, to be a judge, each of us. Judge the facts and come to a conclusion when you vote. It may be that you vote one third here and one third there and one third there, and we don't know what's going to happen, but when you come to vote, you have to be satisfied that you've heard enough to convince you on how to vote.

I suggest to you, honourable senators, that this chamber, a political debating chamber, is not the best forum to deal with the entire issue. This is the forum that will make the final decision, but we should, in my submission, take advice and recommendations from a smaller group, being Internal Economy, which is what we did in the spring. Internal Economy came in with a report and made certain recommendations. I will go to those recommendations that were considered by this chamber and voted on, but that's not the case with respect to this particular motion. That, I suggest, is part of the problem that we have here.

We have a precedent to look at in Senator Lavigne's case. In that particular case, Internal Economy created a subcommittee chaired by Senator Goldstein. Three senators from Internal Economy sat on that committee. Senator Lavigne was entitled to know what case he had to meet. He was entitled to be represented by legal counsel. He was entitled to question those who were bringing evidence against him. He was entitled to put forward his own rebuttal evidence to that. The committee of three then considered all of the evidence and reported back to Internal Economy with their findings and their recommendations. Internal Economy then reported back to this chamber.

That, I submit to you, is the process that would help us get to this bottom of this. You cannot come to a decision on how to vote if you haven't heard all of the evidence and if that evidence hasn't been properly tested. We've seen examples of both of those situations. There's a little bit of evidence that comes out, and then a little bit more that you might be interested in. Here's a little bit more, after you've already made a partial, at least, decision based on what you had heard previously.

There are comments being made with respect to statements that somebody else made, but we haven't had that tested. We haven't heard from the person who is supposed to have led these honourable senators to act in the manner in which they acted. We've seen a document filed, and we haven't tested that document, on what they were entitled to do and what they weren't entitled to do. That has to be tested, and it can't be tested in this forum.

That's what I'm suggesting to you, honourable senators. The issue that has to be looked at has to be looked at in an atmosphere and in a tribunal, if Senator Nolin doesn't like the term "due process," where fundamental justice is being followed. Fundamental justice includes all of those elements of due process, of representation, of knowing what the case is against you and of being able to answer that case. All of that is included in the concept of fundamental justice, which applies to every administrative tribunal.

Senator Baker and Senator Joyal have made the point that we are expected to have a process in place to ensure that fundamental justice is there. I agree with that, and I would suggest that when this matter is referred back to Internal Economy, Internal Economy should create a subcommittee, and the rules should be defined before any honourable senator is required to appear before that committee. That honourable senator must know what case is being alleged. A representative from Deloitte should be there to will tell what they found, and there should be an

opportunity to answer that. If there were factors that resulted in an honourable senator doing something, then those factors must be looked at from the point of view of the severity of the sanction. That goes to the weight. We can't excuse someone breaking the rules when that person knew they were breaking the rules, but, if there were other factors that influenced the manner in which those rules were broken, then that goes to the sanction.

All we have in this motion is the total hammer, everything. There's no opportunity for us in this debate to deal with possible reductions in what the sanctions might be. Why would we have this sanction instead of the sanctions that existed in the spring? There were sanctions from each of these studies by Deloitte. Internal Economy then reported back here with recommendations. The only one that wasn't debated is Senator Wallin because it was during the summer break and then prorogation, so those sanctions that appear in Senator Wallin's were never debated in this chamber, but the others were debated and accepted.

The question of what has occurred since those sanctions were looked at in this chamber, on the recommendation of Internal Economy, is a question that hasn't been answered. Why the new sanctions? Why the additional sanctions? Why all the way? Why do you want to do everything, take away all privileges, all pay and allowances, no office, when we haven't had a chance to hear the case that's being put against them that has resulted in these additional sanctions being applied?

Honourable senators, that in itself should be a reason why we would want to think very seriously about voting against this particular motion and voting for Senator Cowan's motion to send this to the Rules Committee. Rules could create a subcommittee. Let's do this properly. Let's do it right.

In the meantime, what is our responsibility? Our responsibility in this chamber is to protect the public and to protect the institution. We may have to take certain interim steps to do that. Senator Dagenais talked about the administrative steps that are taken with respect to police. Administrative steps are taken in law societies to protect the clients during the investigation. If there are possibilities of criminal activity, then those protective administrative steps are taken separate from whatever investigation is going on criminally. There are two separate processes. We remain seized in this chamber of the administrative aspect while the police do their investigation, and then the Crown prosecutor decides whether they should proceed with a case in the criminal courts. There are different tests. One is beyond a reasonable doubt; the other is a balance of probabilities. There are different things that we're trying to protect. It is not unheard of to have the two moving parallel, but the administrative step must not be such that it interferes with the criminal investigation.

I have read several times the comments that have been made in the past, and I was very disappointed to hear the honourable Leader of the Government in the Senate say that this has all been partisan and no thought has been given to it. I know that this is weighing very heavily on all honourable senators. We wake up nights thinking about this. We don't want to do anything that jeopardizes either process.

• (2030)

What concerned me when I read the comments by the Honourable Leader of the Government in the Senate on October 22 was the last paragraph:

This is not our money; it is the taxpayers' money. We must be careful. Therefore, I respectfully submit that showing this degree of carelessness, of recklessness, amounts to gross negligence in my opinion, and we cannot allow it to go unpunished.

Honourable senators, saying "... we cannot allow it to go unpunished" is getting precariously close to a penal sanction. As soon as we move into penal sanctions, we're getting away from our role as an administrative body, and that is the point that our colleague Senator Baker has been making. I am very concerned about the wording that I saw when rereading that particular passage from the Honourable Leader of the Government in the Senate.

Honourable senators, we can make many different points, but the test from a criminal point of view is "beyond a reasonable doubt" and it is with respect to fraud and breach of trust, and that is not the test that we're applying here. That's not what we're required to do and we shouldn't be doing that. We shouldn't be thinking about how we can punish somebody. That will be done in a proper manner through another process.

Honourable senators will see the words "gross negligence" in here. That's another area I wanted to touch on because there has been no finding in Internal Economy and no finding by the subcommittee on the term "gross negligence."

I wonder, honourable senators, if I might have five minutes to finish on some of these points.

Hon. Senators: Agreed.

Senator Day: I hope that they're helpful. They've come from a lot of listening and trying to analyze the comments and concerns of many honourable senators.

Throwing "gross negligence" into a motion with no basis is another reason this motion is flawed. What did the Honour Leader of the Government in the Senate say? He said, "... amounts to gross negligence in my opinion." Well, in my opinion there is not gross negligence. How does that help you?

We need to go through a process that will help define "gross negligence" and the factors that might lead us to a finding of gross negligence. If we don't go through that process, and we haven't, then we can't vote on a motion that's based on that, and that's what we're being asked to do. That's another point that has caused me a lot of concern.

I've made the point that each of these reports deals with a different subject matter. In respect of Senator Wallin, Deloitte's report is a review of Senator Wallin's travel expenses and living allowance claims. That's what Deloitte was asked to look into on that one. If you look at Senator Duffy's, it's the examination of

Senator Duffy's primary and secondary residence status. They are totally different analyses. What are we doing putting all of these into the same arguments and saying they should have the same sanctions?

The second point with respect to these reports by Deloitte is that they were done by an accountant, and you don't ask an accountant to lead you through the maze of legal challenges that may exist. The committee that looks at each of these senators separately should look at what Deloitte found, should look at all the other evidence, but should also have legal guidance to avoid stepping on one of the other processes that might be in existence. We shouldn't be relying on Deloitte for any of these legal or quasi-legal arguments that are being developed.

The final point I wanted to make is this: I had a bundle of emails that I had seen, and many of us have had those, but what is clear from these emails is that the public, when they talk about due process and say we shouldn't do anything until there is a criminal investigation and a criminal sanction, they don't understand that there are two types of due process. There is one on the administrative side and one on the criminal side. I'm not going to read the public's comments back to you because I'm not convinced that the media has properly depicted the nuances, the fine differences that exist here, and I'm not certain all of us do. I'm not certain I understand the differences that exist here and the important tests that must be applied.

That's why I believe that this matter, with respect to each of the honourable senators, should be referred back to one of our committees. It should go to a special committee where they recognize their responsibilities and report back with a recommendation. We can then vote with confidence. We can ask questions and make a decision such that we can all feel satisfied we've done the very best we could under the circumstances.

The Hon. the Speaker: Questions and comments?

Senator Runciman has a question.

Hon. Bob Runciman: The senator knows as well as anyone in this room that we're now dealing with a time allocation motion and he continues, along with his colleagues, to talk about referring this to a committee. We know after six hours that this is going to come to a vote and I know that members opposite get a little perturbed when they're accused of playing politics with this issue. However, Senator Day referenced his concern about the same sanctions applying to the three senators in question. Earlier this evening we heard the Leader of the Opposition, Senator Cowan, expressing his very serious concerns about the same sanctions applying to all three individuals in question. Yet we hear the Deputy Leader of the Opposition getting up in the chamber this evening and saying that she's not going to allow this on procedural rules or procedural concerns that she has in terms of setting a precedent.

I guess we're talking about the issue of playing politics. We're talking about sincerity when the Leader of the Opposition stands up and expresses his concerns about all three individuals being treated in the same manner. I ask Senator Day to respond to that

[Senator Day]

with respect to the sincerity of his leader, the sincerity of his party and his colleagues with respect to how these three individuals are treated.

Senator Day: I thank Senator Runciman and I appreciate his comments.

Part of the reason for wanting to treat each of these separately is because the evidence that we have is different and because, in relation to one of the reports, it has never been debated here in the chamber; in relation to Senator Duffy, the report was changed and we'd like to know why it was changed. There is the reason why we would want to treat them differently. You want the same sanction for three different senators who have allegedly done three different things, with all kinds of different backgrounds.

The Hon. the Speaker: We're on debate and we will now hear from Senator Comeau.

Hon. Gerald J. Comeau: Honourable senators, there is an old saying that when you want to get a narrative out, you say it and keep on saying it. You keep on saying it some more until people get tired of hearing it, and then you say it some more.

The spin from some in this chamber has been that the Senate administration was wrong, the steering committee was wrong, Internal Economy was wrong, Deloitte was wrong and the Senate itself was wrong with the conclusions of the expense claims of four senators.

• (2040)

Let me do my comments, please.

This spin has been repeated in this chamber many times. Consequently, the proposal is to review the process and the work that led to the conclusions of these four reports. Reviewing the work will therefore restore the American-style due justice, the rule of law and the Charter of Rights and Freedoms; assure respect for the Magna Carta; and restore democracy.

In all four cases, the findings were that the expense claims were to be reimbursed. With the exception of Senator Wallin, the three other conclusions were overwhelmingly supported in this chamber. Because of the prorogation, the report on Senator Wallin was not voted on in this chamber, but Internal Economy presented a unanimous report.

Simply, the aim of this motion, as of the previous motions proposed by Senator Carignan, is to impose administrative sanctions.

Some in this chamber want to establish another committee, which would operate as a court of law, to review what has already been done by the administration, the auditing firm of Deloitte, Internal Economy and the Senate. In fact, this chamber agreed to administrative sanctions when it demanded payment with interest. That's right: Interest is an administrative sanction. The argument against administrative sanctions should logically have been raised when interest was imposed. Where was due process when this chamber imposed the interest sanctions?

The argument is not whether we should impose sanctions because this has already been done and agreed to by the Senate. The argument, therefore, is about the degree or severity of the proposed administrative sanctions.

Senator Segal makes the allegation that the process was biased, that all the participants in the process somehow joined together to apply rules retroactively. The goal is to create doubt and to appeal to Canadians' well-known sense of justice. Senator McCoy similarly stated: "I think Internal would not quite command the respect of Canadians at this time."

Now, honourable senators, all fair-minded people would agree that applying rules retroactively is reprehensible, dishonourable and a terrible injustice. Such a practice would run counter to everything that is decent to Canadians. And I agree that applying rules retroactively would be in fact reprehensible.

Does anybody honestly believe that a conspiracy involving that many participants could be put together and hold together — a conspiracy involving the Senate administration, the independent firm of Deloitte, the 15 members of the Internal Economy Committee and, in the case of three of the four individuals, this chamber itself? That has been the main argument before this chamber so far, that the process was flawed, that a terrible injustice was being done, that the senators were victims of a kangaroo court — an angry mob out for a lynching with pitch forks and old Wild West vigilante justice. In fact, earlier this evening we even heard that the process evoked the excesses of the Nazi regime. Even the so-called Canadian Taxpayers Federation joined in the conspiracy theory this weekend by stating:

They wanted spin and message control, the back-roomers in the Senate and (prime minister's office). They felt by hiring a firm that reported to them, they'd be able to control the story a bit.

Canadians end up getting handed the bill for this political spin control.

Again, the conspiracy theory.

The Liberals can be accused of many things — and I've done a few of these accusations myself in the past — but one thing I can assure Canadians is that the Liberals on the Internal Economy Committee would never conspire to do the bidding of the current Prime Minister's Office. Trust me.

I could understand that some in this chamber might consider the proposed sanctions too severe. That is a valid and reasonable position. But what is being proposed is that the process that led to the conclusions was unfair and biased. It is basically an appeal of the decision of this very chamber.

The Senate has already spent over half a million dollars on an independent, reputable forensic auditing firm to research the facts on our behalf. Internal Economy and this chamber used these findings to arrive at the conclusions that the opposition now wants reviewed again. And, if this appeal does not produce the desired results of overturning the findings, will there be calls to set up another committee to review the work of that committee, and so on, like a bad Bill Murray *Groundhog Day* movie?

How much is the opposition willing to spend to continue looking into the expense claims of these three individuals? Deloitte has clearly stated that it did not apply rules retroactively in its work and I agree with Deloitte. In my estimation, the committee members would not have participated in such a conspiracy as suggested by the conspiracy theorists. Such a scheme would have been too hard to put together and hold the co-conspirators together. Furthermore, the participants in the process were not dummies. They did not all willingly participate in a flawed process that applied rules retroactively.

So, what will be the makeup of this proposed appeal process? In effect, it would be a court of law mandated to adjudicate the application of administrative sanctions. Senator Wallin provides the answer:

I want to make it very clear that I would need to be sure that the protections afforded me in such a process are the same as a proceeding before a court: the right to counsel, who would be permitted to speak on my behalf; the right of my counsel to call or subpoena witnesses and to cross-examine those witnesses; the right to have my counsel question me to outline my evidence before any cross-examination; the right of my counsel to object to irrelevant or inflammatory questions; the right to make final submissions; and, of course, the right to an open-minded jury.

Senator Downe provided further details, and it was in the Charlottetown *Guardian* on October 30:

Senator Percy Downe from Charlottetown says he believes an inquiry at committee is needed where all the key players could be called to testify under oath.

...

“There has been a host of allegations made against the prime minister, against senior officials in the government of Canada, against many in the Conservative Senate leadership and Canadians deserve to know who is telling the truth and who is not.”

So we’re getting a kind of list of who would be invited or subpoenaed to appear before this court.

The Liberal leader in the other place similarly revealed the true intent of the Liberals when he said that the only way to restore public faith in the Senate is for everyone involved, including Mr. Harper, to testify under oath about what he knew and when he knew it. Again, we get an idea as to who the witness list of the other side will be.

The opposition has already accepted the imposition of sanctions, and the issue therefore must be the level of the sanctions. That being the case, why did the opposition not simply say that the proposed administrative sanctions were too high? Why not simply say no administrative sanctions?

We’ve been at this for over two weeks. For over two weeks we’ve been bringing in senators from all over Canada, every week, sending them back, bringing them back in, sending them back.

How long can this go on? And the cost — and I’m quite sure that we at Internal Economy will soon start getting the cost together, but there is a cost to this. I know American-style due justice should not look at costs, but I am in fact looking at costs. There is a point at which we do have to make a decision.

As explained by Senator Carignan, another process is currently under review by the police. The Senate does not have the mandate for that process, nor to interfere. This motion proposes administrative sanctions, which is what is proposed in this chamber. The responsibility and duty to impose sanctions rests on us, in this chamber. Senator Carignan outlined that duty very eloquently when he first spoke on the subject. We cannot set up a court of law to take on that responsibility. We cannot delegate that responsibility to an improvised court of law or to a special committee. We cannot delegate to an outside authority. It is our responsibility and our duty.

Just like Internal Economy could not delegate its responsibility to Deloitte, this chamber cannot delegate its constitutional responsibility to sanction our members. We either accept our responsibility or we shirk it.

• (2050)

Honourable senators, this institution has done valuable work in the past and it can continue to do valuable work in the future. I have been witness to the value and contribution of members from both sides of this chamber for over 23 years now.

With some exceptions, I am proud of the work done in this chamber and especially by our committees. We have talented, committed, intelligent and experienced members devoted to improving the lives of Canadians.

The resumés of many in this chamber would make a great number of people — especially the NDP in the other place — green with envy; from the fields of medicine, law, military, science and education. We have scientists, doctors, former premiers, highly successful business people, artists, constitutional experts, and the list goes on.

But, with apologies to Winston Churchill, this has not been our finest last two weeks and last two years.

We are provided with great constitutional powers and impressive financial resources to do our work. With power and resources also comes tremendous responsibility. Canadians pay taxes in order that we accomplish our constitutional duty, but they expect that we be respectful of the resources they provide.

Canadians rightly expect senators to know the difference between public and private business and for senators to manage their expense claims with appropriate controls. Any senator who does not respect the difference between public and private business should expect sanctions.

We cannot hide behind excuses, invocations to the rule of law, the Charter of Rights and even the Magna Carta, and even reference to the excesses of Nazi Germany. It is our duty to

discipline our members who do not respect the resources they are provided to do public work. Canadians expect accountability. They deserve no less.

The Hon. the Speaker: Questions and comments.

Senator Fraser.

Senator Fraser: Senator Comeau, you suggested that our side had been expressing lack of faith, perhaps — those are my words, but it's the message I took from what you said — in the work that had been done by the Internal Economy Committee and, before that, by Deloitte.

May I ask if you recall hearing repeated statements from members of our caucus — including the leader, including myself, including a vast majority of those who spoke — that we accepted that Internal did an excellent job, that we accepted the reports produced by the Internal Economy Committee, and that we are not suggesting reopening that work? It's not that work that is at issue; it is the lack of work on the next phase of our procedures.

Senator Comeau: Allow me to revert directly to the comments that I made when I was referencing this, and it says the spin from some in this chamber has been — from “some.” I did not identify where the “some” were. I will say that Senator Cowan has been very blunt and yourself as well — and I thank you for it — that the work that was done at Internal was well done.

But I said “some in this chamber.” If it's well placed and it's kind of repeated from some quarters, it does tend to start to slip into the thinking of some people that the work of Internal was not right. I know both you and Senator Cowan have been very straight, and I appreciate it. I think you appreciate the work that is done in Internal Economy, because it is a lot of hard work, but I come back that it was the spin from some.

Hon. Elaine McCoy: Thank you, honourable senators. First let me acknowledge the very gracious and generous words of Senator Baker earlier this evening. The compliment was very much appreciated. I just want to share with you all that I have indicated to Senator Baker that I'm going to print out that portion of Hansard, ask him to autograph it, and I'm going to frame it and put it on my wall. And if I refer to it more often than might be seemly in the days and weeks and years to come, you'll have to forgive me. Thank you very much, Senator Baker.

I would also like to say that I think the debates have been lively, respectful and very helpful. Certainly, my understanding of the issues and my appreciation of the many points has improved and deepened in the course of these debates, and I think that we should acknowledge that to one another as well. I think the quality of the debates has been excellent.

I think, in large part, we have been very fortunate to have the services of Your Honour. Our Speaker has done us a tremendous service in keeping us on debate, encouraging us to debate, encouraging us to be respectful and maintaining a tone that would make any Canadian proud, and many of them are proud to see us conducting ourselves in the way we have. I think a great deal of gratitude should extend to the Speaker.

Hon. Senators: Hear, hear.

Senator McCoy: I'd also like to acknowledge the excellent work our table officers have been doing. I know that they are there and have served all of us. I know that many of us have been seeking their advice from time to time, all of us in the chamber; and, as usual, the advice is freely given. It's excellent advice and it is totally non-partisan. So I appreciate the great efforts that they have also contributed to making this debate as good as it has been.

I will say, though, that I am disappointed at the point at which we've arrived. To me, the whole debate has been about due process, which is actually a common-law term as well, Senator Nolin, which is to say a British tradition; maybe not a Napoleonic one, as in the civil law, but it certainly is a British parliamentary tradition, and it is that that has been my greatest concern.

There are two points I want to make this evening, or maybe three.

The first one is I think that the debate has escalated beyond due process and we're beginning to leave perhaps an impression of abuse of process. Part of that has been caused by designating this debate as government business. Apart from the excellent arguments that Senator Cools put forward, designating this as government business seems to me to mislead many in the country in the following way: Making it government business is leaving an impression, it is my belief, that the government is telling us what to do.

Senator Mockler was saying earlier that we have three branches of government: judicial, legislative and executive. Absolutely true; the executive is the government. The government is the Prime Minister, the cabinet and the civil service. It is not the MPs and it is not the senators; it is the Prime Minister, the cabinet and the civil service.

And, yes, it's important for the government business — which is to say governing the country — to have priority. But all other business is Senate business, and if there's anything that is Senate business, it is surely — and Senator Nolin, I think, was saying this, quoting you, Senator Cools — the power of the Senate is absolute and exclusive, and we should be dealing with this as Senate business.

The role of the legislative function is to be a check and a balance on executive power, and it arose out of the time of the kings and queens, who were by divine right in the British system for many, many years. Often they would use their power to excess, let me put it that way. It was an abuse of power, often, and so grew up our traditions to have legislators. First it was the lords and then the House of Commons.

• (2100)

Now, in Canada, we have the same system: the House of Commons and the Senate. Our role is to ensure that the executive power is exercised in a way that is responsible to the people of Canada.

In particular, the Senate in our system is there to put a check and balance on that power, but not to veto it. We can delay the exercise of executive power, government power, but not veto it. That is as it should be, because we are not a rival government. We're not meant to be.

To now try to push this in under Government Business unfortunately leaves the impression that the Prime Minister and the cabinet are dictating what we do in this chamber. When Senator Nolin says that we should demonstrate — and others have said, and rightly so — to Canadians that we're doing the right thing, I fear that we're eroding our reputation by leaving the impression that it is really the government that is dictating what we are doing. So perhaps rather than improving the reputation of the Senate, this way of going about things is doing the opposite.

My second point is that — and I've argued this all along — I think imposing any sanctions at this moment is premature. It's premature for all the good reasons people have pointed out, but it is premature because we are not allowing the other judicial processes to take place in a timely fashion so that we know everything that we need to know before we go to move our own sanctions. I've said that at length and I'm not going to repeat it at any greater length. Others have articulated it again this evening.

I'm saying it's premature. I'm not saying that we should avoid our responsibility. It is our responsibility to impose sanctions at some point, and it is unfair to characterize me or anyone else in this chamber as saying that we wish to avoid our responsibility. I, for one, do not want to avoid my responsibility. I want to leave all my options open, quite frankly, but I don't think I should do it now. Wiser heads should prevail so that we take a deep breath and a sober second thought and come to answer those questions at a more appropriate time.

I will conclude by saying that I'm impressed by many of our speakers this evening all around the chamber, by the sincere expression of a desire to move forward, and to move forward in a way that does honour to this institution and preserves its strengths, one that allows us all to be the very best senators we can be, independent-minded and fair. I am very pleased to hear the discussion beginning to emerge of how we might go about improving our processes, including a process that might deal with situations of this kind — God forbid they should ever arise again — giving ourselves a chance to have a proper process, even for breaches of our own Rules.

So I think we should move forward. I take as given the expressions of sincerity and well-meaning that senators have made this evening, even those who indicate they want to support the motion that's in front of us, which I think is unwise. But I want to congratulate all of you on your motivation, which sounds to me to be the one that is going to get us through this particular challenge and into a bigger and better future.

Hon. Donald Neil Plett: Honourable senators, I rise again today with great anxiety and reservation to speak to a motion before us to suspend, without pay, three of our colleagues: Senators Brazeau, Duffy and Wallin.

Before I go into my prepared remarks, I want to comment on what my friend Senator Nolin said in his remarks when he said that this isn't a court of law. Please forgive me, Senator Nolin, if I

misunderstood, but I got from your remarks that possibly these people weren't entitled to legal representation. That may be the case in this chamber, but I want to repeat a comment I made last week. I'll read it:

As honourable senators know, I am not a lawyer. Senator Carignan stated his case as to the power of this chamber. We have heard that the Senate is, in fact, its own master.

Honourable senators, just because it is within our right does not make it the right thing to do....

I am not here to defend the wrongdoing of any senator. I am a Conservative. I am a Conservative first and foremost, because I believe in the principles of fairness and justice.

Not just justice, honourable senators, but fairness.

Senator Eaton asked about due process. I hope I have it right that Senator Nolin referred to due process as being something developed south of the border, but Parliament is supreme, so it is not constrained by the same idea of due process.

I think we should all be constrained by the idea of due process and take the word "due" out of there and put in "fair" process.

What we have learned from the past several days of debates is that we know, in my opinion, even less than we originally thought about these cases. We know less about the application of rules — at least I do — the interpretation of the Rules, whether there was a committee bias or a flawed process, and we certainly have a lot to learn about the details surrounding the individual cases.

What I do know, however, is that these senators have not received due, fair process, and I personally cannot stand for anything that deprives any Canadian citizen of that.

I appreciate my leader's efforts to change the original motion to include medical benefits for the sake of compromise. However, this new motion does not resolve any of the concerns that have been raised by colleagues in this chamber or by Canadians from coast to coast to coast.

Again, my concerns are as follows: It is hasty and premature to sanction at this point with so many questions lingering; none of the senators have received due process; I believe that the motion lacks precedents and, as such, sets a dangerous precedent; it goes against all principles of natural and fair justice; and it perpetuates bias, whether real or perceived, in the RCMP investigations and any future trials.

I said last week that we would be oversimplifying a complex issue with a quick fix, and I believe that the debates that have followed since have complicated the situation further, not to mention that, unfortunately, it has been made a political issue by some members on both sides. All of this has confirmed my belief that we are acting too early.

I understand that Canadians are angry. People want answers. Colleagues, this is not the way to get answers. After all of the details come to light we may find that this is too harsh of a penalty. On the other hand, we may find that this is too lenient of

a penalty. Perhaps the investigations will show that the senators in question should be expelled. The bottom line is that it's too early to tell. Not only is this motion premature with respect to the three cases, but we have to acknowledge that we are currently undergoing changes of rules.

• (2110)

We have also invited the Auditor General to come in to audit all of our expenses. Some of the senators in question, together with their legal counsel, have maintained their belief that they were in compliance with certain rules that the auditors and/or the Internal Economy Committee claimed they violated. They have stated this position here in the chamber and in media interviews. However, they have not been given the opportunity to make their cases in an Internal Economy Committee hearing. Only the auditors were given that right. I do not believe that is a fair process.

Perhaps there are other senators who have interpreted the rules in the same way. We will not know until the audit begins. I think we can all agree that the Auditor General was not invited in to find out if a majority of the senators are frauds. I believe he was invited in to assess the application of the rules to see if there is, in fact, a systemic issue regarding the misinterpretation of those rules.

I certainly hope other senators did not interpret any of the rules the same way, as the passing of this motion would certainly pave the way for recourse.

I must point out the lack of consistency in that 102 — a few less, I guess, as there are vacancies — senators will be audited by the Auditor General of Canada, whereas the senators in question have been audited by an external independent auditor without audits of the collective to contrast against.

I made my case last week as to the lack of historical precedence for this motion. Of course, this has not changed with the new motion. Like the original motion, this version sets out an extremely dangerous precedent for parliamentarians. Without giving colleagues a fair opportunity to make their case, we would be able to oust colleagues that are perceived as a political liability. This is unjust and unfair. The dangerous precedent this motion would set has even sparked a change.org movement, an organization that targets matters of social justice.

Tom Flanagan wrote in *The Globe and Mail*:

But it's not just unfair, it's dangerous to start suspending Members of Parliament, whether they are elected or appointed. The usual penalty for being politically inconvenient is removal from caucus, which makes sense because no one has the right to belong to a party grouping. But long-term suspension - expulsion, in effect - from the legislative body is something we expect to see in an authoritarian system, not a democracy.

I would go a step further and say not only are we setting a precedent that we can expel parliamentarians who are unpopular, we are also setting a precedent that the Senate can ignore the right to due process and the presumption of innocence at our convenience.

Since the debates on this motion have begun, I have received, as have many other senators, almost 600 emails from concerned citizens. Over 80 per cent of them have been supportive of the position that I have taken. Eighty per cent, after we are hearing how outraged Canadians are about the Senate scandal. Even though Canadians are angry and want answers, they still do not want to rush to a heavy sanction, ignoring all principles of natural justice.

One lifelong Conservative voter said in an email — and there have been many emails quoted; I will quote three:

This is the kind of justice that one can expect from third world countries or those governed by dictators. Yes, the public, without the benefits of all the facts, may be calling for the heads of those accused but we disagree with the apparent senate mob lynching mentality and firmly believe that justice can only be served by allowing the present RCMP investigation to come to a conclusion and if found guilty appropriate punishment can be meted out accordingly.

Another stated, and I think probably almost all of you received this one:

The Senate was founded of being the gatekeeper of good law in Canada. Being a chamber of sober second thought is THE essential role of the Senate. Canadians count on senators maintaining their autonomy and following the rule of law impartially. The laws of this land were founded on a presumption of innocence until proven guilty. Let the investigation and judgment into the activities of all parties concerned be carried out before the sentence is passed. Do your duty and set up an inquiry before you invalidate the good work of the senate! Please stand on guard for Canada.

And another Canadian pleaded:

In the coming days, you have an important decision to make and a vote in your chamber. I ask that you vote with your conscience, considering the will of the people of Canada, and not vote for partisan politics.

But perhaps the most compelling message that I received was a phone call that my office received from a lady encouraging me to vote against this motion. She is "sick and tired of people comparing this to breaking the rules in private business." "This is not private business," she said. "This is public office." She explained, these are senators who were appointed on the advice of the democratically elected Prime Minister. This isn't a job where your boss hires you and has the permission to fire you. "These are individuals who serve Canada, and they've done something to get there," were her words.

The woman humbly said, "I'm a nobody, and I would have the presumption of innocence until proven guilty. I would certainly like to see that applied to these senators. At the very least, they are Canadian citizens."

Honourable senators, since I last rose in this chamber on this issue, we have learned that Senator Wallin will now be subject to an RCMP investigation. That makes me feel even stronger about

the impropriety of finding our colleagues guilty while the investigation is taking place and before any charges have been laid. The right to a fair investigation and an unbiased trial is another Canadian principle that I am happy and proud to stand for.

Colleagues, Senator Carignan said we need to act conscientiously. I could not agree more. The past several months have been difficult, to say the least, for each and every one of us. The Senate has long struggled to get the media to shine a light on the important work we do, on the thorough studies we conduct in committee, on the bills we bring forward and on the debates of legislation we have in this chamber. Over the past several months, seeing the Senate in the headlines has become a consistent reality for us. For many Canadians, this is the first they are hearing the names of many senators. It is not much wonder that some have been asking the question, “What does the Senate do?” or “Why do we need a Senate?”

Colleagues, it is unfortunate that this is what has garnered so much attention for the Senate, but we need to keep in mind that Canadians are watching. We need to restore the faith of Canadians. This is our opportunity to prove that we are an institution of integrity, of sober second thought. It is our right and indeed our obligation to give this motion a second look, to put politics aside and to vote our conscience on this critical issue.

I would also like to take the opportunity to address the claim that our caucus is being “whipped” and that we are voting to appease our leadership.

When this was made a government motion, our leader, Senator Carignan, ensured that this was still an entirely free vote. In the many discussions that I have personally had with our Prime Minister, he has always encouraged me to stand firm on my principles and to vote my conscience, even when we may disagree on an issue. When it comes to the accusation that our caucus is toeing the party line, I must point out that at least three Conservative senators have spoken out against the direction of what our leader would like on this motion, whereas I don’t think any Liberals have done so.

• (2120)

I also find it ironic that over the last year, opposition parties in the other place have been calling for the heads of these very three senators and now, with the sanctions being proposed, they are opposing them to make a political point.

We all need to respect each other’s opinions. I certainly respect the opinion of each and every individual in this chamber.

This is a difficult debate, and to recognize the indecency of trying to further politicize a question of morality.

Colleagues, political gains are the furthest thing from my mind. If they were not, I think all of you would agree I would be speaking on the other side of this issue.

[Senator Plett]

I certainly have the utmost respect for all of my colleagues on both sides of this house, and their opinions on this matter will not change that. When this motion is no longer before us, I look forward to continuing to work together with all colleagues.

Could I have five minutes more?

The Hon. the Speaker: Agreed?

Hon. Senators: Agreed.

Senator Plett: Thank you. And when this issue is behind us, we need to immediately start working on a code of conduct and a code of ethics so that we will not be back here discussing this type of issue ever again.

For the record, honourable senators, our party line — the party line from my party — is freedom of choice on all matters of conscience. That is the Conservative way, and that is the party line that I will continue to follow.

I have learned the importance of ethics and integrity from our Prime Minister and, as he said this past weekend at a great party that we had in Calgary, one should stand up for Canadians and the rights of Canadians, whether it is popular to do so or not. As we have seen many times from this Prime Minister, he is a man of the highest ethical standards, and he speaks for the rights of Canadians on the world stage, whether it is popular or not. For that reason, I will do what I believe is the right thing to do and I encourage all of you to do the same.

As I said before, after assessing the codes of conduct of other organizations and after speaking with legal experts, I maintain that the appropriate course of action is the following: When an investigation is going on, it is inappropriate to sanction. If an individual has been charged with something, then we should consider suspension with pay. If the individual has been convicted or indicted, then and only then would it be appropriate to impose serious sanctions, which in this case may well be expulsion.

For this reason, I cannot vote in favour of Senator Carignan’s motion to sanction the three senators in question at this time.

Honourable senators, I do not very often quote scripture in this chamber — I usually leave that to Senator Smith and Senator Meredith to do that — but I will today, and I will conclude with this scripture found in Corinthians 16:13-14:

Be on your guard; stand firm in the faith; be courageous; be strong. Do everything in love.

Colleagues, I’m not suggesting how you vote. I’m asking you to do the right thing.

The Hon. the Speaker: Questions or comments?

Hon. Pierrette Ringuette: Would Senator Plett answer a question?

Senator Plett: Yes.

Senator Ringuette: In my almost 11 years in the Senate, in comparison to the House of Commons and the New Brunswick Legislative Assembly, from my experience, the Senate shines by the depth of inquiry that we do in committee with regard to study, motions and legislation. Every expert out there that appears as a witness recognizes the work being done in our committee and the thoughtfulness and the sober second thought in our reports. But that process entails witnesses and expertise and that, from my perspective — and I want your comments — is certainly one of the pillars that we use when we take a vote.

My question is: Why could we not use the same process in this situation before we take a vote with regard to those three colleagues?

Senator Plett: Senator, first of all, let me just say that I agree.

As I said in my remarks, I certainly think the committee work we do here is fantastic. When people ask me what I enjoy most about the Senate, without a doubt, it's the committee work we do. It's non-partisan — at least the committees I'm on with Senator Mercer; we're both fairly non-partisan and we have a good time at committees. We do good committee work. I certainly agree with that.

Senator, I'm not sure that we can do that in this chamber. Last week, in my speech, I think I made reference to the fact that I believed that the senators, although they were allowed to go to the Internal Economy Committee and they were allowed to ask questions as anybody else was, they were never actually the witnesses.

Hindsight is 20/20, but I certainly believe that we should have a process that when somebody is being accused that they be given the opportunity to be the witnesses and be there with their lawyers. I'm sure Senator Nolin is quite correct when he said — he is more of a lawyer than I am, by all means — that lawyers maybe are not allowed there. Then we need to change that. If somebody is being accused of something as serious as this, they need to have legal representation at some point in the system, whether that's at committee or any other place.

Senator Cools: Honourable senators, I rise to speak as strenuously as I can against Senator Martin's motion to suspend.

I wanted to begin by thanking Senator McCoy, who just said to me that she had intended to raise a question of our mutual amendment to impose a leave of absence rather than this suspension, so I thought I would mention that on her behalf.

I would like to add that I'm deeply concerned that this motion before us — Senator Martin's motion — is especially harsh because it assumes guilt of some form, as did Senator Carignan's now-abandoned three motions. The fact of the matter is that these four motions treat these three senators as though they have been charged, tried, convicted and sentenced.

The imposition of suspension without pay is the most harsh penalty, according to the Senate Rules, which suspension is only invoked after sentencing. I sincerely believe that this whole question has been manifestly unjust, and that Senator Martin's motion was drafted as a cherry-picked motion, from Senate suspension rules that were already set aside, by the motion's notwithstanding fact.

This motion is not something that the Senate knows. Its severe penalties and consequences were never intended by the Senate Rules on suspension, I want to make that clear.

Honourable senators, we keep raising the phenomenon of prejudicing the police investigation. We should be forthright on this. We should admit that this suspension motion will prejudice the police investigation by the nature and the substance in its drafting. It doesn't take a genius to see that the sanctions are actually penal sanctions, not administrative or not disciplinary, as some say.

• (2130)

It is clear, and maybe some do not understand or do not see the implications of this motion and have not looked at how it was scripted and put together piece by piece. That is the objective state of affairs and just how it is.

I say that this motion before us, as the four before us, are outlaws and irregular because they are drafted outside of any principle and any rule that currently governs any of our processes.

I wanted to make that clear. This is not personal. I honestly believe that many senators do not understand the nuances that are involved.

Honourable senators, having said that, I thank Senator McCoy again. I say to colleagues, think twice, think 10 times and then more, because this is a grievous matter and a matter of the most terrible enormity. We should not underestimate that for a moment.

To Senator Plett, who was speaking before, I would like to say that in circumstances such as this, the principle has been and the practice has been in the high chambers of the world to allow the afflicted person's representation, legal counsel, to appear below the bar. There are many precedents for that. That could have been done very easily. When Senator Wallin spoke, I noticed that in responding to questions, she said that she would have preferred that her legal counsel could be available to assist her or present for her. This is a mighty system. We should know this.

Colleagues, I say that we are in terrible circumstances. I respect Senator Nolin and his explanation of due process, I have read the expression "due process" in lots of old English law books. In any event, I believe that these terrible circumstances command that we proceed by well-settled procedure, not by novel ones like this motion.

Black's Law Dictionary, fourth edition, at page 1497 defines the rule of law as: "A legal principle, of general application, sanctioned by the recognition of authorities, and usually

expressed in the form of a maxim or logical proposition. Called a 'rule,' because in doubtful or unforeseen cases it is a guide or norm for their decision."

Honourable senators, one would have to describe this situation as a doubtful case. It would have been nice for us to proceed by well-agreed, well-known and settled principles.

I view these motions not as disciplinary but as punitive, invoking not disciplinary powers but penal ones. The goal of Senator Martin's motion is not truly a suspension but an unknown creature, a form of temporary removal of the senators. Let us understand that. I have been hearing that some are suggesting that these three senators not even be allowed in the parliamentary precincts.

These motions speak to a few concepts, one of which is the life estate in office of senators, a style and form of appointment that is intended to protect the office-holder from despotism or from executive oppression.

This motion also speaks to the attendance of senators, which as we know is their first duty, by Her Majesty's command, in the Letters Patent, constituting senators.

Each senator is personally constituted as a senator by an individual Letters Patent with life tenure.

I shall read from this command:

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.

AND WE do command you, that all difficulties and excuses whatsoever laying aside, you be and appear for the purposes aforesaid, in the Senate of Canada at all times whensoever and wheresoever Our Parliament may be in Canada convoked and holden, and this you are in no wise to omit.

Colleagues, the fact is that there is more written on the subject of removal of judges than there is on removal and suspensions of senators. I thought I should look to some of the authorities and ancient opinions expressed on these matters.

Honourable senators, I speak of the Senate advisory and peer review that is supposed to exist for colleagues. I wish to make the point that the Senate has that capacity in respect of many office-holders. I offer you the precedent of 1879, when Quebec Lieutenant Governor Letellier was removed by the Governor General. In the order-in-council from John A. Macdonald to the Governor General, he cited the addresses of the House of Commons and the Senate. He was removed. The Governor General heeded the advice of the Senate address.

[Senator Cools]

Afflicted senators should be dealt with in a manner consistent with the Letters Patent and the office. I have seen much of strenuous official activity to discredit that notion. I do not like it. I will not dwell on that.

Honourable senators, any judge in distress has a right to appeal to the Senate or the House of Commons for protection from an oppressive government. It is clear that the constitutional fact in the cases of senators and judges is the fact that life estate in office is unbreachable except for misbehaviour of such nature as to be a legal breach of the conditions of the grantee's Letters Patent — by the grantor the Governor General. This is why there has been so much difficulty with these three senators and why such ruthless and merciless force has been meted out.

Honourable senators, I shall quote sources that are close to Confederation, which reveal the minds of the Fathers of Confederation as they were drafting these provisions of the BNA Act. The 72 Quebec resolutions eventually became the BNA Act.

Alpheus Todd in his 1869 book, *On parliamentary government in England*, Vol. II, writes about the phenomenon of dispossessing a grantee of his life estate in office. I make the point that the sole power of granting belongs to the grantor, who is of course Her Majesty the Queen by the Governor General. Todd is writing about some legal opinions here:

Assuming, therefore, that a judge is removable either for "misbehaviour" in office, sufficient to constitute a legal breach of the condition of his patent, or at the pleasure of Parliament, expressed by an address from both Houses, and for no other cause whatsoever, the opinion next examines whether the power of suspension under the Act 15 Vict. No. 10, is really consistent with the tenure of "good behaviour."

• (2140)

This is very important because all office-holders are bound by good behaviour.

At common law the grantor of an office has the power to suspend the grantee from his duties, though not to affect his salary or emoluments.

Honourable senators, we must understand that at the time senators didn't have salaries, but judges did. Senators still do not have salaries. They have indemnities.

It was held by Lord Nottingham, in Slingsby's case, that this power of suspension may be exercised when there is in the office an estate, not merely for life, but even of inheritance. But it can only be exercised by a power similar to that by which the office was conferred. And as judges are appointed by the crown under letters patent, they could only be suspended or deprived by a proceeding at law for an avoidance of the patent, or by some other legal action on the part of the crown.

I am bringing into this picture again that the Governors General should be involved in such grievous action as we are taking here and that the power to suspend and to remove officers rests with the Queen's representative.

Honourable senators, Todd further explains the meaning of the term "during good behaviour." He explains that it means life tenure. Now, the judges are not like us. Whereas our BNA Act says we are appointed for life, the judges are appointed during good behaviour, which means life tenure. For 200 years, since 1701, the Act of Settlement, the judges have relied on the 1692 case *Harcourt v. Fox*, and on Lord Holt's seminal judgment.

The Fathers of Confederation would have relied on this case in drafting the relevant sections for judges in the BNA Act. I ask senators to listen carefully for the unity of words and phrases in the act's section 31's five subsections under the heading "Disqualification of Senators" and those of the act's on judges removal. Section 31 begins, "The Place of a Senator shall become vacant in any of the following Cases." At page 727, Alpheus Todd wrote:

The legal effect of the grant of an office during "good behaviour" is the creation of an estate for life in the office. Such an estate is terminable only by the grantee's incapacity from mental or bodily infirmity, or by his breach of good behaviour. But like any other conditional estate, it may be forfeited by a breach of the condition annexed to it; that is to say, by misbehaviour. Behaviour means behaviour in the grantee's official capacity. Misbehaviour includes, firstly, the improper exercise of judicial functions; secondly, willful neglect of duty, or non-attendance; and, thirdly, a conviction for any infamous offence —

The BNA Act section on senators says "infamous crime;" this says "infamous offence."

— by which, although it be not connected with the duties of his office, the offender is rendered unfit to exercise any office or public franchise. In the case of official misconduct, the decision of the question whether there be misbehaviour rests with the grantor, subject, of course, to any proceedings on the part of the removed officer. In the case of misconduct outside the duties of his office, the misbehaviour must be established by a previous conviction by a jury. When the office is granted for life, by letters patent, the forfeiture must be enforced by a *scire facias*. These principles apply to all offices, whether judicial or ministerial, that are held during good behaviour.

Honourable senators should note the unity in the terms between the judges and the senators.

Honourable senators, Alpheus Todd continues, relying on the legal opinions of the successive U. K. Attorneys General, William Atherton and Roundell Palmer. At page 728, Todd wrote:

... when a public office is held during good behaviour, a power [of removal for misbehaviour] must exist somewhere; and when it is put in force, the tenure of the office is not

thereby abridged, but it is forfeited and declared vacant for non-performance of the condition on which it was originally conferred.

Note the term "vacancies" as in Senate vacancies per the BNA Act 1867, sections 31 and 32.

Honourable senators, Joseph Chitty —

May I have some more time?

Hon. Senators: Agreed.

Senator Cools: Sorry, these questions are difficult for the reporters to follow exactly.

Honourable senators, Joseph Chitty wrote on the law of forfeiture and seizure of office. In his 1820 seminal work *A Treatise on the Law of the Prerogatives of the Crown*, at page 85, he wrote:

We have already extracted from the various rules relating to offices, this important principle, that as they are constituted for the public weal it is expedient that they should be properly executed. On this principle a condition is tacitly and peremptorily engrafted by law on the grant of all offices, that they be executed by the grantee faithfully, properly, and diligently: on breach of which condition the office is forfeited or liable to be seized. This principle has ever been admitted...

He added at page 87:

The general rule is, that if an officer, who holds his office by patent, commit an act incurring a forfeiture, he cannot be turned out without a *scire facias*, nor can he be said to be completely ousted or discharged, without a writ of discharge; for his right appearing of record, the same must be defeated by matter of as high a nature.

Honourable senators, life estate in office, granted by senators' letters patent, is not alterable or abridged, as many senators believed some years back when they agreed with the prime minister to serve eight years. Life tenure is lost only by forfeiture. If any senator here doubts me, and the books of authorities, I shall cite Sir John A. Macdonald. On April 5, 1867, in a memorandum to our first Governor General, Monck, he wrote about forfeiture and vacating the letters patent. Recorded in Joseph Pope's 1894 *Memoirs of the Right Honourable Sir John Alexander Macdonald*, at page 391, Macdonald wrote:

It has been suggested... that the Senators should hold the rank and title of Knight Bachelor. This seems objectionable, as the office may be forfeited from any of the disqualifications mentioned in the Act...

Honourable senators, forfeiture and any of these sanctions that are applied are the purview of the Governor General.

Forfeiture is executed by the grantor, the Governor General, by writs that vacate the grant of estate for life, and this belongs solely to the Governor General. This Senate or the government has no power to alter these senator's letters patents by suspension or by removal. That prerogative power only is exercisable by the Governor General. The Fathers of Confederation constituted the Senate just like the judges to place them beyond the reach of despotic arbitrariness, because they understood the nature of ambition and the nature of power. The Governor General's Letters Patent 1947, Article V, confirmed that suspensions and removals are the Governor General's.

Honourable senators, section 31 of the BNA Act, headed "Disqualification of Senators," recites the five causes of senators' disqualification — attendance, non-attendance, foreign oath, et cetera. The only one that is vaguely relevant here is section 4.

31. The Place of a Senator shall become vacant in any of the following Cases:

(4) If he is attainted of Treason or convicted of Felony or of any infamous Crime...

In other words, senators' misbehaviour that is sufficient to cause their patents to be vacated are identified and codified in the British North America Act, unlike for judges.

• (2150)

In this instance, "criminal behaviour" means related to treasonous and like acts that offend against allegiance to the Queen, that are violations of their sacred oaths. At that time, "felony" meant serious crimes that touched allegiance — in other words, perfidy. Section 31(4) is not preoccupied with a senator charged with stealing candy. The BNA Act, 1867, section 32, is clear that Senate vacancies are by resignation, death, or otherwise. That means disqualification.

The Hon. the Speaker: I thank the honourable senator for her intervention.

We're continuing debate with Senator Wallace and then we will have Senator Dyck.

Hon. John D. Wallace: Thank you, Honourable Speaker.

Honourable senators, as with each of you for some time now, I think we have been unable to think of much else other than the issue that brings us here this evening. It's a difficult time — difficult for all of us. It's difficult for the three senators who face these serious allegations. Nonetheless, that's the responsibility we have as members of this chamber.

The suspension order has been placed before this chamber, and it compels each of us to make the best decision we can on the allegations that have been made. We know just how serious this is. We know the consequences will be serious. They have been serious for the three senators who face the allegations, and we know that it's extremely serious to the credibility of our Senate

institution. Therefore, how we deal with this and the eventual decisions that we each come to in all of this are extremely important.

As have all honourable senators, I've given much thought to all of this, I have looked extensively at the suspension motions, the facts as we know them and as they relate to each of the three senators — Brazeau, Duffy and Wallin — and our Senate Rules that apply to suspensions. Having been through that, I have some thoughts and personal observations. The reason I wanted to speak to you this evening was to bring those to your attention, and I leave it to each of you in your deliberations to consider the value they may have to you as you do that.

Honourable senators, to begin, as they say, I will go back to the beginning. The reason we're here this evening is because of the suspension motion that is before us. When you read the suspension motion, it's clear that the suspension order that's requested for each of the three senators is on the basis of their alleged gross negligence in the management of their parliamentary resources. That to me is the underlying issue. We have to examine the facts that are available to us that support the allegations of gross negligence.

I've heard a lot of my colleagues here who have spoken and have stressed, which is absolutely correct, the importance of ensuring that as an institution we, as members of this chamber, are accountable, we're answerable for what we do and how we do it. We demand that of each other. We have to demand that of each other, and our institution has to expect that of us and we expect that of our institution, so we understand that.

The issue we have to address specifically is the alleged gross negligence of each of the three senators. To start — and this has been stated by others before me — the first thing to understand is what "gross negligence" means. What is the standard that we're going to look to and compare the facts to in order to determine if there has been a transgression? I would say the onus of providing that explanation rests clearly with the mover of the suspension motion.

I'm not sure to this point that I have actually heard that. I'm not sure if I have heard that standard explained to me, but I will leave it at that.

The facts that we will have to apply, must apply, in determining if gross negligence has been committed by any of the three senators will be based on the facts of each situation. The determination of gross negligence has got to be clear and unambiguous, and we have to consider the facts — the circumstances — of each separately. They cannot be grouped together. It's one motion but, as has been requested, we will be voting on each of them separately. There is no suggestion that somehow they conspired to work together collectively and take them as a group. That's not what we are faced with.

We do have to take the time and give it the thought to consider each of their circumstances individually, and those facts must be based on what is presented in this chamber. It cannot be based upon what we read in the media; it cannot be based upon

unsubstantiated allegations, not even those we see attributed to the RCMP and some work they're doing. It has got to be based upon what is in this chamber.

What has been presented in this chamber? We have reports from Deloitte in respect of each of the three senators; we have reports from the Committee on Internal Economy and whatever other information has been presented in this chamber, in some cases by each of the three senators themselves; and, of course, we have the benefit of listening to each other as members of this chamber in debate.

We must look at and consider the specific allegations of gross negligence made against each of them. I would say to you that from the Deloitte report and reports in particular that I have examined, the allegations of gross negligence do arise from claims that have been submitted for living expenses and travel claims.

As each of you would well know, many of those would be dependent upon what we refer to as travel status, and for any of us that are more than 100 kilometres from our primary residence — and that term resonates I'm sure with a lot of us — then we would be considered to be on travel status and at that point we are eligible to claim living and travelling expenses.

I went back to 2009, when I was appointed to this chamber, and at that time Senators Wallin, Duffy and Brazeau were also appointed. I went back to look at what the rules said about this primary residence, principal residence and travel status business because that's the basis upon which the expenses have been claimed. Is it clear? Can you read the rules and clearly understand them? Is there confusion? I must say I'd never thought about it before until a lot of this came up. I have noticed some things, and I want to draw them to your attention and you can give them the consideration that you choose.

• (2200)

In the Senate Administrative Rules 2009 — and I won't read all of this, but just to paraphrase it — it states that if a senator whose provincial residence — not primary but provincial residence — in the province or territory the senator represents is more than 100 kilometres from Parliament Hill, then he or she is considered to be on travel status and eligible to receive reimbursement for living and travelling expenses.

I was interested to see at that point this reference to “provincial residence.” I wondered, what does that mean? What is “provincial residence?” You know, that's important in all of this because the claims and the discussions that have taken place around this issue of primary residence primarily seem to come down to an issue of whether a primary residence is one that is in the province or territory that a senator represents, or is it one that a senator may have in the National Capital Region? If you have one in each, which is primary and which is secondary? That's a critically important issue for the purpose of claiming expenses.

So, in 2009 the reference was to “provincial residence” — not primary, but provincial. A “provincial residence” in 2004 means “a senator's residence in the province or territory for which the senator is appointed.” That definition changed, in 2013, to mean

“the home of a senator that has been identified to the Senate for administration purposes as his principal home,” again, “within the province or territory for which he is appointed.”

I won't go through the different references, but in some of the guidelines, and so on at that time, in 2009, and moving forward, there was reference to “primary residence” in much the same context, and “primary residence” was not defined. “Primary residence,” however, did become defined in 2012 in the Senators' Travel Policy.

So the issue — and it's at the heart of the claims that have been submitted in particular by Senators Brazeau and Duffy — is: Where was their primary residence? Where was their principal residence? It was based upon declarations that each of them filed. As you know, each of us has to file those annually and declare if our primary residence or principal residence is within 100 kilometres of the National Capital Region or if it's outside. And then the declarations go on to ask us to insert the address of the principal residence, primary residence, in the territory or province that we represent.

This issue is a confusing one, and it's one that you really have to take the time to go through and see, well, what exactly do these rules say? Deloitte were requested by the committee on Internal Economy in each of the three cases, for each of the three senators, to assess where the primary residence of each is located.

For Senator Brazeau, as I read the Deloitte reports and the reports of the Committee on Internal Economy, that's the only issue; that's the sole issue. The claims that he filed were in respect of the filing of his primary residence declarations. In his case, was his primary residence in Quebec, in Maniwaki; or was it in Ottawa? In Senator Duffy's case, was it in Prince Edward Island or was it in Ottawa?

Now, I'm really not going to focus on Senator Wallin on that, because the Committee on Internal Economy determined that she complied with the residency requirements; that her residence is in Saskatchewan, so those issues of primary residency really don't pertain to her.

So Deloitte was asked to assess the primary residence of each, where is it located. And their conclusion in each of the reports was this, and I will read it to you:

2. There is a lack of clarity in the terminology used for the different residences mentioned or discussed in the applicable regulations and guidelines. The following terms are used without being clearly defined: primary residence, secondary residence, NCR residence, provincial residence.... registered residence...

3. The regulations and guidelines applicable during the period of our examination do not include criteria for determining “primary residence.” As such, we are not able to assess the status of the primary residence declared by —

— the senator —

— against existing regulations and guidelines.

Now, I want to just say to you that, being a lawyer, I am raising this with you not to appear to present some sort of a defence based on the ambiguity of the rules — that isn't it. This is in no way a defence of any of the alleged transgressions of our colleagues, but this is information that I believe is critical to the allegations that are against them and it's information I believe you must have.

Some Hon. Senators: Five minutes.

The Hon. the Speaker: Five minutes, agreed.

Senator Wallace: The critical question in particular for Senators Brazeau and Duffy in considering whether they were grossly negligent in completing their declarations for primary and statutory residency — and that, to me, seems to be at the heart of the allegations against them, that they were negligent in indicating the locations they did — is, were they? That's what you'll have to give some thought to. Was it beyond a shadow of a doubt that there was no other reasonable explanation for what they did than they were grossly negligent?

I'm not going to have time to take you through the different references, but suffice it to say, in the Senators' Living Expenses Guidelines in the National Capital Region, in the Senators' Resource Guide, the references to primary residency and the requirements to file primary residence declarations — the references I'm reading say all the same thing — refer to designating a primary residence in the province or territory represented by the senator. The actual forms of the declarations — and I'm sure each of you can recall this because we fill them out every year — is exactly that language. It is requesting us to indicate our primary residence in the province or territory represented by the senator.

Again, I won't take you through all of the —

Some Hon. Senators: Oh, oh.

Senator Mercer: He's just getting warmed up.

Senator Wallace: Two of the things I'd bring to your attention — and, again, this is, as has been said, in the decisions in the reports of Internal Economy regarding each of the three senators. It is what it is. It's not a matter of appealing that. We may have different thoughts on some of the conclusions, but there are a couple of observations I would make.

The committee decided that primary residence indicators could be relevant in determining where your primary residence is actually located. As we would all be aware, on February 28, 2013, as a result of the committee's nineteenth report, each of us were required to present our driver's licences, provincial health cards, income tax returns and signed statements. From that, that may be some indication of where your actual residence was.

I would make a comment on that. I've looked at the residency requirements for each of those cards and they vary. They're all different. There's really very little similarity between them and, when you compare one province to another, there's considerable variation.

[Senator Wallace]

• (2210)

In addition, the Committee on Internal Economy has found that to determine primary residency and whether, in fact, it's in the NCR or in the province or territory represented, that they would look at the percentage of time that a senator spends in each of those regions. That was included again in the committee's nineteenth report of February 28, 2013. Neither those travel patterns nor the primary residency indicators were required prior to February 28, 2013. Yet, when you read the reports of Deloitte, and they're reviewing the activity during the period of review — which was all in 2011, 2012 and in some cases going back to 2009 — you'll see reference to those indicators, but they didn't come into existence until a later date, February 28, 2013.

Honourable senators, I suspect I'm getting well near the end of my time. The final point I would make is to draw your attention to the fact that the Committee on Internal Economy and Deloitte did not express an opinion, nor were they asked to, as to whether acts of gross negligence had occurred. They were not asked to do it. They didn't do it. As a result, that responsibility is ours. We must look at the information we have and pass our own judgment on that, and I think that's important to realize.

Many seem to feel that because the Committee on Internal Economy determined that certain monies should be repaid, that that is confirmation of acts of gross negligence. I would say to you that's not correct. There can be different reasons why monies are requested to be repaid by senators, and that has happened many times — administrative errors, mistakes and so on. To allege, though, that it's based on acts of gross negligence takes it to an entirely different level, and there is no shortcut around that. Each of us has to examine that and examine the circumstances of each of the three senators separately and come to some conclusion.

Senators, thank you for your attention, and I hope those observations may be of some assistance to you.

Hon. Lillian Eva Dyck: It's getting late in the evening. The last two weeks have been absolutely stunning. We're saying we're holding up government business, but we are learning; I am learning so much about the Senate, about parliamentary functions, about principles of fairness and justice. I think there could be no better training for new senators, and I still consider myself somewhat new, even though I've been here eight years.

I'm going to quote a young man who worked for CBC for a short time. His name is Wab Kinew. You may have watched him on television. He was the producer of *8th Fire*. He was very wise, and he said something to the effect that we have more in common than we have differences. I think that's true even in this case, that we have more in common than we have differences. We all want to see a resolution to the situation before us. We all think that claims have been made, expenses have been reimbursed that shouldn't have been reimbursed, and we want actions, sanctions to be taken. But where we disagree is on how we determine what those sanctions should be, the process, and whether or not that process has been fair. As I said in my previous speech, I think that the process has not been fair to the three senators — Duffy, Wallin and Brazeau — and we have been too hasty.

The sanctions proposed in this motion, suspension without pay, are the sanctions, according to our rules, which we usually reserve for a senator who has been found guilty of a criminal charge during court proceedings. That's a very high sanction. That seems to me to be very severe, so that's why I think we have to take our time in determining whether or not we support this motion.

The silver lining in all of this was alluded to by several senators, that we will now have to sit back and say, "What are we going to do next time and what have we learned from this?" We must now go forward with a better process, such as referring it to a special committee, and develop a code of conduct so we know what is acceptable and what is not.

Tonight I would like to focus my remarks on the possible conflict between what we are doing in the chamber with these motions to discipline the three senators and whether that will have any impact on criminal investigations or charges that might come out of what the police are now investigating. That has been raised several times by Senator Baker, who said there may be a serious problem here; and Senator Nolin addressed it as well, saying no, he didn't think that was so.

But I think that if there is a potential, why would we take the risk? Should we not err on the side of caution?

Many people have said in the last couple of weeks that it is clear that the Senate is master of its own house, with exclusive authority to administer and regulate the functions of the house. It has been pointed out that our proceedings may have serious consequences for the ongoing police investigations into the potentially criminal actions of the three senators — Duffy, Wallin and Brazeau.

The government has argued that our Senate disciplinary proceedings will not impact the ongoing police investigations, things like fraud and breach of trust against the three senators. However, in two other Commonwealth countries where they had to deal with similar cases of fraud, breach of trust and theft, the United Kingdom and Australia have taken the opposite stance with respect to any infringement upon court proceedings. They halted, stopped their internal investigations into either a lord or a member of Parliament after the police initiated their investigations, even before the charges were laid. In Australia and the United Kingdom, those houses of Parliament decided that they were going to stop their investigations. Once those investigations were completed, whether or not a charge had been laid, then they restarted their own process. So they erred on the side of caution.

The government leader has also referenced the United Kingdom House of Lords as a precedent for these motions for suspending the three senators without pay, but he did not mention that the disciplinary proceedings to suspend the lords were halted when the Metropolitan Police Service started their own criminal investigations into the same allegations. I'm repeating it again to make sure that it's clear what happened.

The main reason that the House of Lords did this was so as not to jeopardize any police investigation and criminal prosecution, while trying at the same time to attain a level of fairness and due process. They did not want to interfere with the police investigation and possible laying of charges.

After the allegations of parliamentary expenses abuse was widely reported in *The Daily Telegraph* newspaper and other media in 2009, the United Kingdom House of Lords and the Clerk of the Parliaments started an investigation into those allegations. This internal investigation was then suspended or halted, as I mentioned, when the Metropolitan Police Service started its own separate criminal investigations into the same allegations. The internal investigation and disciplinary proceedings to suspend only resumed after the Metropolitan Police Service informed the Clerk of the Parliaments that either they would not pursue charges or after the conclusion of criminal proceedings.

Let me repeat that: Once the police started their own investigation into the same allegations of abuse of parliamentary expenses, the House of Lords suspended — that's a terrible word; "suspended" is confusing — halted their internal disciplinary proceedings until the criminal proceedings were finalized, either with no advancement of criminal proceedings, as indicated by the police service, or at the conclusion of a criminal trial. So they were done completely separately. The two investigations didn't run at the same time.

• (2220)

The reasoning behind such a stance is outlined in the U.K. Supreme Court decision *R. v. Chaytor* in 2010. During the court's decision they stated that the process had been agreed upon by the houses of Parliament and the police services. It stated:

The Chairman reiterated the Committee's belief in the general principle that criminal proceedings against Members, where these are considered appropriate, should take precedence over the House's own disciplinary proceedings....

Where this was done, the Chairman confirmed that the Committee would normally expect the Parliamentary Commissioner to suspend his inquiries until the question of possible criminal proceedings had been resolved.

Furthermore, the larger question of whether there is a relationship between disciplinary proceedings in Parliament and criminal proceedings for the same crime was also answered by the court, and that is stated in their decision at paragraph 81:

Where a crime is committed within the House of Commons, this may well also constitute a contempt of Parliament. The courts and Parliament have different, overlapping, jurisdictions. The House can take disciplinary proceedings for contempt and a court can try the offender for the crime. Where a prosecution is brought Parliament will suspend —

— halt —

— any disciplinary proceedings. Conversely, if a Member of Parliament were disciplined by the House, consideration would be given by the Crown Prosecution Service as to whether a prosecution would be in the public interest. In 1988 Mr Ron Brown MP damaged the mace in the course of a heated debate and declined to apologise. The House

exercised its penal powers in relation to both the damage to the mace and the lack of respect for the authority of the Chair. The Director of Public Prosecutions subsequently halted an attempt to bring a private prosecution.

The court has contemplated that, regardless, if the house does discipline their member where a criminal prosecution may also be brought, the sanction must be given consideration by the Crown Prosecution Service as to whether a prosecution would be in the public interest: an overlap. As such, it — meaning the sanction — would also have consideration in the criminal proceedings and subsequent trial. This consideration may come in the form of Senator Baker's arguments of criminal double jeopardy, or it could be argued by these senators that they have already been punished under the exclusive authority of the Senate, and the court may not seek further sanctions.

Either way, it would be unacceptable that a disciplinary proceeding in this chamber would exclude these three senators from facing the law in criminal prosecutions or, at the very least, delay criminal proceedings against them on jurisdiction motions and appeals.

Simply put, honourable senators, in absence of such legal guidance from our own parliamentary and criminal law experts, why are we willing to flirt with the legal possibility that our actions here may immunize these three senators during their criminal proceedings? There is that risk. Are we going to go forward and take that risk?

If I were to put it in the Conservative political lexicon, if they have done the crime, will they do the time because we have prosecuted them here?

Honourable senators, the U.K. is not alone in giving precedence to the criminal proceedings over Parliament's own disciplinary proceedings. In Australia, the Parliament of Queensland faced a similar circumstance in the case of Mr. Gordon Nuttall, MP. During the deliberations of the ethics committee, it was stated:

... that the committee's established procedure when dealing with allegations of contempt which may also be a possible criminal offence is to take no action in relation to the possible contempt until any actions in relation to the alleged criminal offence have been finalised.

This concurs with the principles in the U.K. that any investigation of contempt by the Ethics Committee could prejudice the prospect of any possible criminal proceedings and/or a person's defence to those proceedings.

Independent legal advice was sought into the implications of contempt proceedings during the lead-up to Mr. Nuttall's criminal trial. Mr. Davis, QC, advised that contempt proceedings, which would happen internally in their parliament, should be halted until the criminal proceedings have been concluded.

So, in both cases, the proceedings within Parliament had been halted until the police had done their investigations and, if charges were laid, the criminal proceedings have concluded.

I would like to remind honourable senators that even though it is not stated in these motions, the government has argued that contempt is a parliamentary offence that these three senators have committed.

Honourable senators on both sides have stated during debate on this and the previous three motions that our process does not respect due process or fairness to the three senators. I agree. Worse yet, our actions in this chamber may also taint the criminal proceedings in achieving due process and fairness outside the chamber.

While the government would like us to think that the actions taken here are completely independent of the criminal proceedings under way and our finding of gross negligence would have no effect on the criminal proceedings, I would argue that the U.K. Supreme Court and Australian precedents have stated the exact opposite. Even if you look at our penalties within our rule books, the penalty, as I said before, of suspension without pay is after a senator has been found guilty of a criminal offence, not before, and not before they've been charged.

The perfect way to proceed would be to halt what we're doing. The second perfect way would be to go with what Senator Cowan has said: take it to an independent committee. Let's get the proper structures and processes in place.

A second important departure from the House of Lords precedent is that each lord's case was taken separately and evaluated separately. Each lord was given an appeal mechanism and was then sanctioned to different suspensions and repayments. They didn't bundle them all together, all three of them. You know, roll up the rim and we'll get rid of them. They're all bundled together.

As outlined above, after the police service had notified the Clerk of the Parliaments of the determination of the criminal proceedings, the House of Lords subcommittee was then charged to investigate the issues and recommend sanctions against the lords in question.

Could I have five more minutes?

The Hon. the Acting Speaker: Agreed for five more minutes?

Hon. Senators: Agreed.

Senator Dyck: Thank you.

The reports of the House of Lords subcommittee on conduct and privileges recommended different lengths of suspension from four months to the remainder of the parliamentary session. So, in those cases where the lord was not charged with a criminal offence, I believe they were still suspended without pay, but only for a period of four months, a much shorter length of time than we are envisioning here. The reports with the recommended suspensions were then reported back to the chamber, debated and passed.

In the motions to suspend before us, as has been stated by many senators, it is a case of one-size-fits-all on evidence produced by the Internal Economy Committee and external auditors Deloitte,

not on an issue of contempt or gross negligence but on the basis of an audit. There's no way our process comes close to following the precedent of the House of Lords. I would think that would be the chamber to which we would aspire and that we would follow the kind of precedents that they have set.

Surely we should follow and allow due process and fairness to the three senators, which would ensure that due process and fairness in subsequent court proceedings would also happen.

In the U.K. and Australia, as I've said, when dealing with similar issues of expenses that weren't allowed, they suspended — halted — their investigations until the police had finished what they were doing. They did so as to not interfere with any court proceedings. And here's the real irony, honourable senators: these senators could argue that they've already got punished here. They've been suspended without pay until who knows when, until we decide to remove that sanction under whatever that rule is saying we lift the suspension. They could say they've already been punished to such a high degree that there's no way the courts could then punish them even more, because they've already been punished under the exclusive authority of the Senate. So, really, the whole thing could backfire and blow up in the faces of those that want to punish.

• (2230)

I do think all of us think something needs to be done. Some sanctions have to be given to the senators, but I think we have gone about it too hastily, without due thought. The outcome, honestly, I don't think it's going to be good. I don't think the general public, from the letters that we've been receiving — the letters at first were overwhelmingly “Get rid of them.” “Get them out.” “Suspend them.” Now the letters are saying they, like every other Canadian, deserve due process and fairness, so we must sit back. Being the chamber of sober second thought and setting a precedent here in the Parliament of Canada, we must do the right thing. We must consider this and reject this motion and support the amendment. The ideal, of course, would be to halt and start afresh.

The Hon. the Acting Speaker: Questions? Senator Mitchell?

On debate with Senator Lang.

Hon. Daniel Lang: Colleagues, I rise today because we, as senators, must do all we can to restore the public's confidence in this chamber. Like my colleague Senator Mockler, I find this one of the most personally challenging debates of my political career. In personal life and in public life, it's important to understand that no one senator is more important than the institution.

When we accepted the invitation to serve, it was implicit that we conduct ourselves in a manner that is above reproach. In other words, we are expected to always act on our personal honour.

I refer to the term “personal honour” as it has been used for centuries in the British parliamentary system to describe the guiding principles that govern the conduct of members. At the end of the day, each and every one of us is expected to act in accordance with the standards expected by the chamber and Parliament as a whole.

I draw members' attention to comments made by our former distinguished colleague Senator Lowell Murray. He wrote:

None of us is in the Senate by right, nor have we been chosen by the electors. It is an extraordinary privilege that is granted to us, to be full participants in the national legislative process and to have tenure. Therefore, we owe a greater duty to be conscientious in the performance of our duty.

Senator Murray underscored greater duty on us to be conscientious in how we do our work and how we respect the taxpayers.

Colleagues, no one senator is more important than the well-being of our institution, which is why the Constitution leaves it solely to this chamber to discipline its members.

All members that have spoken are unanimous that the conduct of the senators in question warrants some form of sanctions. Most Canadians see the issue very clearly: Some of the representatives in the Senate have violated the trust that was granted to them, and they should be held accountable. The decision that's being asked of us is do we suspend with pay, or do we suspend without pay?

Earlier in the debate, Senator Cools and Senator McCoy proposed a leave of absence with pay. However, I do not believe that this approach will restore the public confidence in this chamber.

During the debate, we have spent a great deal of time discussing whether or not the Senate has the authority to suspend with or without pay a member because of their conduct. Like most of you, I am confident that we do have the authority, and we do have the responsibility.

For the record, less than six months ago, we in this chamber passed Bill C-42, Enhancing Royal Canadian Mounted Police Accountability Act, which broadened the authority of the RCMP to suspend a member without pay for violation of their code of conduct notwithstanding the possibility of pending charges.

Having set the standard for RCMP officers, should we not be held to the same standard we demand of the women and men in our national police force? Suggesting that we suspend with pay while the authorities or a committee reviews the matters before us, in my judgment, is not reasonable. The public will not accept such a measure as investigations could take months or even years while the senators are receiving full pay and benefits. Some in the public may go so far as saying such a sanction is a vacation with full pay. Suspension with pay will not restore the public's confidence in this chamber nor in us as senators.

The question of due process in this chamber has been raised by some. While this process may not have been perfect, it's worth noting that the reports before us have been approved unanimously by 15 members of the chamber from both political parties. Each of our colleagues in question had the opportunity to meet with the auditor to present their case. All senators have accepted the validity of the audit reports.

During the debate, some have recommended we refer the matter to a special committee to study. Now that the matter is before the chamber where all can participate in the review, one wonders what the benefit would be to have a committee audit the audit or review the work of the Standing Committee on Internal Economy, Budgets and Administration, which was already approved by all members.

If we follow this recommendation, at the end of the day we will have another report based upon the same Deloitte audits which we have been speaking about for the last two and a half weeks and which have already cost the taxpayers hundreds of thousands of dollars. Another report will bring us back to where we were on October 17. This in no way restores the public confidence in the chamber or in us as senators. The matter is before us, and we have a responsibility to deal with it. Due process, call it what you may, is taking place, no matter how unpleasant we all find it.

Colleagues, we have had many hours of debate before the chamber as a whole, and it could not be more open and transparent. The time has come to make a decision. When it comes time to vote, the reputation of this chamber and the public confidence in it and in all of us will be forever affected by the decision we make. We will be establishing a precedent for the consequences of a senator's conduct. The seriousness of the infractions will have to be weighed against the decisions we make.

The motions that we will be voting on, for me, have caused a great deal of anguish as I try to reconcile Senator Brazeau's Deloitte audit in comparison to his colleagues'. I note for the record that Senator Brazeau met all four indicators for residency. He had two expense claims, one for \$72.48 and the other for \$72.49, which the auditor deemed questionable but not necessarily repayable. All 28 trips taken by Senator Brazeau between Maniwaki and Ottawa were deemed to be in order, and unlike the others, neither the committee nor the chamber referred Senator Brazeau's case to the appropriate authorities.

Where Senator Brazeau claimed for his residence in the National Capital Region, he stated to this chamber and tabled an email confirming his understanding that he had the green light from Finance to claim for the entire year.

• (2240)

I agree with the Standing Committee on Internal Economy, Budgets and Administration that he should have known better. But I do not believe his actions warrant the same time sanctions as the other two. His conduct should warrant a suspension without pay for a lesser period of time. For the reason described, I'll be abstaining on the vote as it applies to Senator Brazeau, but on the other two votes, I will support them as proposed.

Senator Runciman: Mr. Speaker, to Senator Lang, if he will take a question.

I want to indicate to him that I share his concerns with respect to the sanction being applied to Senator Brazeau, based on the independent audit. I am concerned, and I suspect you are, based on your comments, with respect to the position taken by the official opposition, who have indicated on a number of occasions their interest in seeing these individuals dealt with on an

individual basis. Yet tonight we hear the deputy leader of that party standing in this house and saying her party is not going to allow this to occur, scurrying through all the rules and procedures to find a way, if they can, to put a stop to this.

At the same time, they say they are not playing politics with this very important issue. There is an opportunity; some of us have concerns, they have said they have concerns, but they are not going to allow us — that's the position taken by the deputy leader, supported by her colleagues, I assume — to participate in the way we wish to participate in this vote. What's your view of that?

Senator Lang: Colleagues, I share that concern, but I think common sense will reign at the end of this. I think the motion before us is very clearly written, and I would be the last to give the Speaker instructions on what his ruling should be, but it would seem to me, and for all members, that we should have the right and the privilege to make such an important vote on this particular matter individually as opposed to collectively.

I think members opposite, once they think about it, will have to agree that that's the way the process should work, in fairness to the issue that we have before us. It's a sad day for all of us, and I think that's the way it should proceed.

The Hon. the Acting Speaker: Senator Dallaire.

Senator Dallaire: Colleagues, I think that at this hour, maybe a moment of levity might be in order.

I would like to read a little ditty of the visit of Sir Winston Churchill in Canada when he was on a speaking tour. At a reception, he happened to be seated next to a very straitlaced Methodist minister. Now, in our old traditions in the army, when it was only men, we didn't speak of women or religion in the mess, and I will offend both of these in a moment.

He was seated next to a straitlaced Methodist minister when a pert young waitress came up to them with a tray of glasses of sherry. She went first to Churchill, who took a glass, and then turned to the minister. He was appalled to be offered alcohol. "Young lady," he announced, "I would rather commit adultery than take an intoxicating beverage," whereupon Churchill beckoned the girl: "Come back, Miss. I didn't know we had a choice."

I'm not too sure we have one tonight. We have a vote, but I'm not sure about the choice.

Now, my intervention here is to pursue the argument that we are involved in a disciplinary process that doesn't exist. That is to say that we are flying by the seat of our pants to bring about some major sentences against three of our members who have committed what we consider to be errors with respect to the procedures and the rules.

I say we don't have a procedure, because I don't see in here, first, the charges — well, no, the charge is there; it's in the motions, at least the first part. But immediately within the charge, we also indicate the sentence. We say we're going to suspend them without pay, and then walk through this.

[Senator Lang]

But I don't see the process by which, first of all, we have a gradation of sentences. There is no reference anywhere that says that for certain charges you get certain amounts or certain punishments, and for certain other charges you get other punishments, and a means by which we can adjudicate and take a proper decision.

There is no such process. There is no disciplinary process, unless somebody commits a crime and is thrown in jail, then of course we throw them out, and that's pretty straightforward.

Here we're talking about administrative errors, administrative infractions that call for us to take disciplinary follow-up action.

So what do we do? Three motions have been thrown at us, and now brought together, but the three motions essentially say: Here is the charge, here is the sentence, let's vote.

And we walk through this. Of course, the prosecuting side, if I may say — and I only look at Senator Carignan as the prosecutor because we're all here together without party — so he's the only one who has the responsibility to raise it and has done so.

He lays out the charge, lays out the sentence, and then we debate, with the accused sitting there also, with their part of the debate being limited by the same procedures that we have in regard to their defence.

Now, if we're into a disciplinary process, there are certain things you expect to hear. As an example, you'll expect to hear from members of the board of inquiry who are sitting there; you will expect to hear mitigating information.

These three people were not dummies before we realized they were making some significant mistakes. They have performed for your party, for this country, significant actions — why they were chosen by the Prime Minister in their specific realm. Not one, apart — no, one, maybe two, maybe three — it's sort of like looking for green Smarties in grass.

I didn't hear anybody else say they did do some work for us. They did perform; they did conduct this. In mitigation, that should be considered. If you have mitigation, then you have a group that can look at that assessment, look at the spectrum of punishments for the charges provided, and you come to a decision.

Now, that is not workable in this environment. You can't have 99 judges, you can't have 99 accusers, and you can't have 99 people trying to figure out whether you're guilty or not and ultimately the sentence. It's not a disciplinary procedure. It's us doing normal business.

However, when we do normal business, we have debate, a few individuals, and then we send it to committee, because that's where the guts of the matter are brought out. We have witnesses and so on, and then that material is brought back here where we sit down and we say yea or nay.

Now, this very complex administrative procedure has significant punitive results to it — as an example, an open-ended sentence — I don't know where that exists, to the end of the

session. The end of the session. Maybe you know more than we do. Maybe you think don't worry too much because we're going to call an election in three months, so it's only going to be three months of lack of pay, or maybe it will be two and a half years or two years until the election, and maybe it is going to be longer than that afterwards, if we decide to do that. How can you bring a sentence that's open-ended and say that it's just and that we have actually accomplished our duty by, first, judging them; second, listening in mitigation to what may be in their favour; third, having heard them and the information that was provided, and then ultimately, taking the decision? This decision is the open-ended one, which is not being debated or seemingly easily debated except that we're now starting to hear, as the example from Senator Lang and a few others, that maybe this sort of shot-gun justice isn't the right way of doing it.

• (2250)

Maybe we're not really responding to what Canadians think the reform of this institution should be, just a bunch of people ganging up on somebody, getting rid of the problem because we have more important things to do.

I don't want to offend anybody who says we've been at this for two and a half weeks and we're wasting taxpayers' money. May I remind you that we wasted a whole month because of prorogation. We could have been working since September and we could have been farther down the road. We didn't do that because the government decided to prorogue and so we have lost that. The taxpayers wasted a month of salary for all of us as we sat and waited for marching orders to continue to do our duty.

I cannot understand how we will handle other cases. It's one thing to discuss these three today and do it without, I think, the fundamental disciplinary process that every other institution has. How are we going to handle the other cases coming down the road? What will be the disciplinary process? What will be the scale of punishment, of sentences that we're going to use? Now that we've blown the lid off the top of going to nearly the maximum possible, the only other thing we could have done is throw them out. I still wonder why you didn't do that. If you are going to do everything else and use the term "humanitarian amendment" by letting them have their medical and health insurance, what kind of pejorative term could that be? If you didn't slit the throat, you came just below that. The question is, what are we going to do with the next cases? And there will be other cases, as we see the auditor is going to pick up a \$13 glass of orange juice and on and on. How will we handle all those? Who is going to handle it, the whole gang of us again?

If anything, these last two weeks have reinforced that this place does need reform. It has to sort itself out in how it wants to take care of itself, take care of its own, protect its own, and also ensure that the institution in doing so is protecting its role and responsibilities to the people of Canada. You can't do that by the seat of your pants, or, as we used to say, by writing on the back of a cigarette pack, how we are going to handle this tonight, and tomorrow night some other way.

There is no way that I, given where I come from, can even consider voting potentially to amended sentences because I really don't think that we handled the whole exercise in a reasonable

fashion. We have been putting in all this time. A bunch of us could have simply taken this aside and done it “disciplinary.” There are all kinds of ways of explaining how to do that — they come back, give us the report, bingo, we’re off to the races, and meanwhile we could have kept on working. We could have done that but we did not. In my opinion, a proper process has not been used that is fair and that meets the requirement.

I’ll end on the actual charge sheet with the definition of gross negligence. Senator Wallace has raised it and others have raised it.

It is interesting that the administrative board, the Internal Economy Committee, gave no recommendations on disciplinary matters. We were told that it is not its mandate. I didn’t know that. I didn’t read anywhere that it’s not, but anyway, seemingly it’s not.

If they didn’t take that, we have to take it, and then we get from the prosecutor that it’s gross negligence. I don’t even have the definition yet. What is negligence and what will the penalty be for that, and what will be misdemeanour and what will be that \$13 glass of orange juice?

Colleagues, yes, we must take action, but we must take it as an institution that wasn’t invented last week, an institution with depth and methodology, and it’s protecting Canadian people, or it’s protecting its members who must hold that responsibility of bringing in, supporting and introducing laws in the country.

I wish simply to add to the fact that we don’t have a disciplinary process, and that we’re “ad hoc’ing” it and we’ll pay the consequences of that.

There is a side story. This comes back to a couple of comments on whether or not we’re playing party politics. It is interesting. You get an assessment that maybe this process is not quite correct and the people on this side applaud, particularly when it is one of your side. None of you applaud but we do, and when we hear on your side an argument that is for the process, everybody applauds. Is every individual convinced of that? Where is the party politics or is there party politics in that?

Because it’s not clear whether or not we’re standing individually, I would like to read a few words from the bible. I use the word “bible” because it’s called *Protecting Canadian Democracy: The Senate You Never Knew*, edited by Senator Joyal.

With the bit of time I have left, and hopefully I will get a five-minute extension, I will read the following:

The government is not held “responsible” in the Senate in the sense that its fate is not determined by the outcome of any Senate vote. For this reason, partisanship is not a matter of necessity in the Upper Chamber and is generally frowned upon in Senate debates.

The constitutional duties of a senator, as stated in the Commission of Appointment, do not include loyalty to any party. Notwithstanding public perceptions and political expectations, the constitutional obligations of senators supersede whatever partisan allegiance they may have.

[Senator Dallaire]

This is not merely the statement of an ideal; it is rooted in the constitutional mandate of senators. Despite any assumptions to the contrary, the Commission whereby the Queen summons persons to the Senate of Canada and the Oath of Allegiance to Her Majesty, which one must recite before becoming a senator, are not trifling formalities —

The Hon. the Acting Speaker: Is Senator Dallaire asking for an extra five minutes?

Senator Dallaire: If you don’t mind, I’ll take another five minutes.

The Hon. the Acting Speaker: It is agreed on five.

Senator Dallaire: If that’s your last offer, I’ll take five.

— nor are they vestiges of the pomp of a bygone era. Indeed, the Commission is a constitutional document, and the Oath is part of the written Constitution of this country. For what compelling reason, therefore, should a senator’s constitutional duty under the Commission and Oath give way to party loyalty?

Because of time, I’ll go to the end:

As previously mentioned, the limits on the partisan allegiances of senators flow from their Commission and the Oath. The foremost duty of a citizen who accepts to serve in the Senate is to provide advice and consent in the passage of legislation and scrutinize government policies and activities on the basis of their individual judgment. Senators have a specific mandate to speak on behalf of the sectional interests of their respective regions and to promote minority interests and human rights. Putting personal or partisan ambitions ahead of one’s constitutional obligation is, in my view —

In our view, I hope.

— equivalent to a breach of duty.

Thank you very much.

• (2300)

Hon. Patrick Brazeau: Honourable senators, depending on the outcome of the votes tomorrow, I fully acknowledge that this might be my last speech, so I hope you will indulge me with the time I need to say what I have to say.

For the record, I’ll state that, ironically, Senators LeBreton, Tkachuk and Stewart Olsen, and Nigel Wright, are no longer in their positions. Geez, I wonder why. I think that those three individuals, in particular, have a lot to tell to Canadians — the story and the whole story.

But I stand accused today in a shameless farce, a show trial, a gong show the likes of which has never been seen in Canadian history. Time may run out before my side ever gets told in its entirety, but here for the record are the facts.

I understood that, in keeping with Senate policy, some honourable members rented a home in the National Capital Region year-round. Since the Senate doesn't sit year-round, I asked my office to clarify the housing policy. Surely one would rent only for the months that the Senate sits. An inquiry was sent to Senate Finance March 8, 2011. The reply came back that day that, in keeping with the policy, I should rent for the entire year.

I trusted my colleagues and I trusted Senate Finance. I did not expect the rules to change. I did rent an apartment in accordance with the policy. I submitted the lease and filed the appropriate paperwork in keeping with that policy.

In December 2012, when CTV aired a very selective, sensationalist, misleading, tabloid-style report on my housing situation, Mr. Robert Fife's story mentioned the rule that to claim allowance, one's designated primary residence must be 100 kilometres or more from Ottawa. Mr. Fife did not refer to any other elements of the policy, including the fact that it is a system of designation.

Mr. Fife interviewed selected citizens of Maniwaki. Honourable colleagues, people of Maniwaki have lives to lead and do not spend their time verifying my activities or whereabouts. Aside from being a huge intrusion into my privacy, Mr. Fife's story gave the impression that, because these individuals had not seen me, that I was therefore somehow in violation of Senate policy.

Mr. Fife did not name any rule, guideline or policy that I had broken. The story was meant to suggest impropriety without demonstrating it through evidence. That is certainly one way to do investigative journalism. One hopes that some journalists still do believe that evidence, rather than mere insinuation, should play at least some part in news reports. What Mr. Fife's story omitted was, in fact, the citizens that he did interview who did confirm that I lived in Maniwaki. Maybe that's for another day.

Immediately after the Fife report aired, my father and other family members were besieged and harassed by reporters. Friends and acquaintances in Maniwaki were also targeted by reporters looking for so-called dirt on Brazeau. This harassment took a personal toll on everyone in my family. It is hard to understand unless it has happened to you — being called at all hours, reporters hiding behind bushes, people following you. My children, too, felt the stress of this harassment by the media. I apologized to them for what they experienced. They did not deserve it.

In response to this misleading, irresponsible and incomplete news report, a subcommittee was struck to examine this exact news report. That was their mandate. I was invited to appear and I did, bringing along documents which I hoped would assist the committee. It is fortunate that I did bring those documents along, because the committee members had no idea what to ask to establish my residency under Senate Rules.

Colleagues, if Senate housing Rules are perfectly clear, as Senate leadership repeatedly insists they are, why was it so difficult for this committee to know what to ask of me? If everything is so clear, why were they so stumped? If the Rules were so clear and unambiguous, as they say they are, it should have been a simple matter. Either I was compliant with Senate policy or I was not.

But they had no idea how to proceed. I gave them documents and expected the matter to be closed. After all, I was compliant with the policy and had submitted documents that refuted Mr. Fife's allegations and insinuations.

But the matter was still not closed, not by a long shot. Deloitte was engaged to examine my housing claims. I was extremely eager to work with Deloitte because I wanted to put the matter to rest, not just to clear my name but to put a stop to the constant, unending harassment of my family by the media and others. Certainly professional auditors would soon verify I was compliant with the policy and the matter would be closed.

As you know, the matter was not to be closed. I was given an advance copy of the Deloitte report but, interestingly, not an advance copy of the report by the subcommittee of Internal Economy, nor the Internal Economy report, which is now chastising me.

Many of you have admitted that you did not spend very much time reading either report yourselves. These documents could not be more different. You may have had a moment before voting to read the riveting conclusion of Internal Economy's report. The way they tell it, I should be taken out back behind the Library of Parliament and shot for my thievery and deceit, so grave, so atrocious, so unfathomable were my so-called crimes.

We all know that you accepted your colleagues' report without looking back at what they did not tell you. What exactly is it that they did not bring to your attention? Is it something, perhaps, that folks would rather not see? What was in the Deloitte report that failed to capture attention? Was it that it was too uncomfortable to discuss?

The Deloitte report found that there are serious flaws in Senate policy. There are either missing or contradictory definitions for the following five terms: number one, primary residence; number two, secondary residence; number three, National Capital Region residence; number four, provincial residence; and number five, registered residence.

This is a huge indictment of Senate policy. Deloitte found the policy to be so fatally inadequate and incoherent that they were unable to even begin to address the status of my primary residence against any existing guidelines. What Deloitte was able to confirm was that I met the four newly created indicators of the primary residence test. They also confirmed that, unlike most senators, I did not charge any per diems for food and incidentals.

Oddly, the Deloitte report discusses where I go on my personal time off, another huge invasion of my personal privacy. Where a senator sleeps or goes on his or her time off is not part of the Senate housing policy and is, quite frankly, nobody's business.

I did not charge the taxpayer for trips here and there, calling it official business, as is done by many senators and MPs. Let's be honest: You don't even know any more what the definition of official business is.

The question must be asked: Why did Deloitte try to measure my behaviour against guidelines which do not exist? Is this standard auditing practice? I can understand measuring

behaviour against past policy as well as current policy, but to measure past behaviour against policy that may exist one day in the future? Is that standard auditing practice?

You have to wonder who in this chamber, or perhaps elsewhere, instructed Deloitte to audit using rules which are not in existence. If you're not curious about that, if you're not curious about how the Deloitte contract was managed and handled — and possibly manipulated — then, respectfully, you're going to remain willfully uninformed.

Rather than owning up to the extremely embarrassing and inexplicable shortcomings contained in Senate policy, Internal Economy decided to publish a fictional work in the form of a report suggesting that the definitions are, in fact, as they quoted, absolutely clear and unambiguous. How, dear colleagues, it is that something can be both lacking clarity and completely clear is perhaps like the sound of one hand clapping or of the tree falling in the forest.

The Orwellian reinterpreting of Deloitte tabled by Internal Economy appears to be the only document honourable senators read before voting to impose serious financial penalties against me. You then impose punitive measures on me without pointing to one single rule, one single policy or one single guideline breached by me, or giving me a chance to defend myself in this chamber or elsewhere.

My repeated, continuous, unrelenting calls for explanations have been ignored. I have been ignored. I hear I'm a friend that you only want to help, yet I am ignored. It seems to me that if a friend is being treated unfairly, you try to help them right the wrong, but you continue to ignore me. I ask why?

My office began a rigorous campaign to try to understand what had happened, to blow the whistle on the lack of due process and to get the matter re-examined. A letter dated May 16, 2013, was sent to Senator David Tkachuk, who was then Chair of Internal Economy. The letter was sent from Debby Simms, my policy adviser, via Senate email and was followed by hard copies. It went to members of the subcommittee as well. To date, there has been no response from David Tkachuk or the other members. Again I ask, why not?

- (2310)

How can it be that my letter went ignored and unheeded? Is this due process? Is this your call for sober second thought? As far as I'm concerned, I'm still a human being and I deserve at least some level of respect. As your colleague, I deserve and still deserve a substantive response to the letter I sent you over six months ago.

Letters of concern were also sent to the Auditor General and to the Senate Ethics Officer. Surely someone would want to look into the outrageous misrepresentation of the Deloitte report on the part of Internal Economy. But, as we were to learn, there is no earthly power with the authority to oversee or audit the behaviour of Internal Economy. They can do what they like, to whom they like, when they like and how they like.

[Senator Brazeau]

Senator Segal: Shame.

Senator Brazeau: They do not need to explain or justify their decisions. They are by every measure above the law and they need to answer to Canadians — LeBreton, Tkachuk, Stewart Olsen.

On June 17, 2013, every honourable senator was emailed a list of 20 questions pertaining to the lack of due process regarding the work of Internal Economy on my housing claims. There were three replies, all of them indicating not to expect one. Not only would they not explain what rule I had broken, I was not worth the trouble of talking about it.

Some honourable senators will gossip anonymously to the media, casting themselves as saviours out to save a supposedly drunken, drug-addicted Indian, while at the same time appearing before TV cameras and crowing about how “disgusted” they are with my behaviour regarding my housing claims. This is an interesting way to “care” for a “friend.”

I also learned in the media that an honourable senator said anything I say should be “taken with a grain of salt.” Well, I may not have attended private schools or written books or travelled the world doing great things, as many of you have, but at least for the moment I am still a sitting senator.

My concerns merited your attention. There was no concern about my rights to due process; there was no sober second thought. We sent you 20 questions five months ago. You haven't considered them worthy of response. You don't care about those questions, and I ask again, why?

After all these failed attempts to get the attention of my colleagues, there was not much left to do but to monitor the Internet for stories about my housing claims. Frustratingly, the same error was found again and again and again. They are still reporting the error. Last week the falsehood was repeated in an editorial in the *Chronicle Herald* and just a few days ago in a CTV report based on an email from the PMO.

From PMO, honourable senators; the Office of the Prime Minister of Canada, we learned from CTV, says that an independent audit found me guilty of misdeeds and owing money. What kind of information is being fed up to PMO from the leadership here? Did they just send their headquarters the Internal Economy report without the embarrassing Deloitte report?

Speaking truth to power is hard but always a good idea. Did Senate leadership speak the truth to the PMO? How is it that the PMO is so badly misinformed? Deloitte did not — and I repeat — Deloitte did not find any wrongdoing by me, so why is the PMO saying this now? Again, I ask why?

Each time this falsehood about Deloitte finding fault with me was found in news reports, my office sought out the journalist responsible and asked them to look at the Deloitte report for themselves rather than simply reading the report of Internal Economy.

To their enormous credit, those dedicated journalists did so and duly changed their reports to reflect the facts. Deloitte found no wrongdoing by me. It was a secret committee which created that alternate reality, that politically useful fiction. Deloitte had faulted Senate policy. You won't find that inconvenient fact of life in a press release from anyone but me.

It is not honourable to accuse me of trying to rip off the taxpayers when I have not done so and when it is you who have paid hundreds of thousands of dollars to be scolded by Deloitte. Did you really need Deloitte to tell you that your policy pants are around your ankles? Forgive me, but really not.

Honourable colleagues, how could Internal Economy ignore Deloitte's warnings about the serious flaws in Senate policies? Why would they do that? Again, I don't understand. It is incomprehensible to me that the Senate of Canada does not care that their policies have been found by an independent audit to be so inadequate as to be completely useless — yet I stand here on trial now. Deloitte didn't find me guilty. They found Senate policy grossly inadequate — so inadequate that it cannot be properly used in an audit.

To summarize, for the record, I did not claim per diems while in the National Capital Region, unlike many honourable colleagues and senators and MPs. I don't want the taxpayer money for lunch; I bring my own lunch.

I do not know the number, but I understand that many honourable senators lease a home in the National Capital Region year-round. It seemed to me that one would lease a home only for the months the Senate sits. That's why I specifically asked for clarification from Senate Finance. They told me in writing I should claim for the year. I took Senate Finance at their word that this was the policy, and I understood that I was not only following the rules but I had written confirmation that I was following the rules.

I had very limited travel expenses — just under \$6,000 over a two and a half year period — compared to many others.

I met all four residency criteria set out by the Senate because of me. The reason why many of you senators are able to claim today is because of the documentation that I brought to prove my primary residence. However, Internal Economy decided otherwise, in secret, behind closed doors. Every time I had assumed I had finally demonstrated once and for all that I am compliant with the policy, some moved the goalposts.

Internal Economy came up with new criteria. I was found by Deloitte to meet all of them, yet here I am on trial. I don't understand. Deloitte found only one travel period that they said was subject to interpretation and determination by the subcommittee regarding an amount of \$144.97. Note that Deloitte did not say this money was to be reimbursed by me. Deloitte did not find me owing any money whatsoever. I am here standing on trial for \$144.97; not that I owe back, but has been questioned.

Deloitte found that the Senate housing policy, which seems to be forever in flux, has some serious flaws. Senate housing policy is still missing basic definitions. Good policy always begins with

defining its terms properly. For reasons I do not fully understand, Internal Economy ignored Deloitte and created their own reality for political purposes and expediency, finding me guilty of something all of a sudden. Which rule I broke, they still don't say.

Why was the Senate of Canada not alarmed when an independent audit found their housing policy to be so badly flawed? Deloitte said, "We would like to assess this Senator against your guidelines, but we can't make heads or tails of your guidelines, so we cannot assess."

Deloitte could not assess, honourable colleagues. I repeat, Deloitte could not assess, but you have assessed on your own. Again, for political purposes and expediency, let's throw them under the bus. Well, you're not going to throw this Indian under the bus or else you better have big spokes.

In politics, as I have learned in grand fashion in the most publicly humiliating way possible, if someone can accuse you of going against the spirit of the law for their own political purposes, they will. Hence the need for sound, firm, precise and clearly articulated definitions. Were you in my position, you would feel the same. I'm being judged by senators who claim per diems while in Ottawa, who claim much higher travel than I have, who themselves may or may not meet the residency criteria — however those criteria are being defined today — and who have higher contested expenses than I do, surely higher than \$144.97.

• (2320)

Let's take Senator Stewart Olsen. She had expenses questioned. She used to be part of Internal Economy, yet she's being protected by the party. It's okay for her.

As for Senator Boisvenu, several months ago, even he admitted in black and white to the media that he had a similar situation to mine. I separated from my wife, which led to this issue. The same thing happened to Senator Boisvenu, and he admitted in black and white, "Well, I falsely claimed," so he paid back an amount of approximately \$900, while at the same time admitting to journalists that he would go back to Sherbrooke once or twice a month, which is exactly what I did. I never hid that fact.

What I do in my private time is my private time, but why is he being protected and I'm not? I'm being judged by senators who claim per diems while in Ottawa. Again, I have to repeat, for \$144.97.

Colleagues, in light of these facts, I am hereby waiving my privileges and requesting that the transcripts from all my meetings with the subcommittee, Internal Economy, Budgets and Administration, including all meetings between Internal Economy and Deloitte dealing with my issue, be tabled. And I'm also requesting the cost of the audit regarding my housing issue to be tabled.

Additionally, colleagues, I humbly request that you consider the full and complete findings of the Deloitte report, including their finding about the inadequacy of Senate policy, before imposing any penalties proposed on October 17, 2013.

I would like to broaden my initial request for a call for a public inquiry into the matter of the relationship between Deloitte and Internal Economy and its members. What was the nature of Deloitte's mandate? I never received it. Did Deloitte's mandate change throughout the audit? Were all members of the Deloitte team comfortable with assessing behaviour against criteria that do not exist? Are there records of conversations between Internal Economy and Deloitte or the PMO? Was Deloitte the victim of political manipulation?

You may get me out of the way today, but these questions will remain on the record forever.

I submit that it is in the public interest that there be a full and complete accounting of the management of the Deloitte contract so that Canadians can finally know the whole truth. In addition, Internal Economy must be accountable to all Canadians. We cannot have this committee meeting behind closed doors, making decisions that can ruin people's lives to cover their own behinds.

When people have something to hide, they change the subject, they change the channel, they insist there is nothing to see here and let's go on to the more serious, more important work. Yes, we've seen that in the last two weeks. When you have nothing to hide, you seek openness and transparency. You ask questions when something doesn't make sense and you keep asking until it does.

I am asking and have been asking, and yet all my questions remain unanswered, and I ask, again: Why?

I would like to personally express appreciation to the honourable senators who did approach me and who are willing to take a sober second look at the motions that pertain to me in particular. Colleagues, it was never my goal to bring dishonour to this place or to you. I never wanted to cause anyone here personal stress, embarrassment or shame. I sincerely regret what you have all experienced; \$144.97 should not be the cause of all this.

I cannot speak to the cases of my colleagues, but I can certainly speak to mine. I'm here for \$144.97. Because I'm being thrown under the bus, because Internal Economy completely ignored the Deloitte audit, I am about to be suspended without pay, which will severely affect my children, including my special needs child, and my family.

In closing, I would like to address my children directly so that it is in the permanent record that they can read some day.

You are too young to understand what is going on here. I am much older than you, and I barely understand. It is very important that you understand that I am not guilty of what some of these people are accusing me of. It is very important that you know that I am not a thief, a scammer, a drunken Indian, a drug addict, a failed experiment or a human tragedy. That's for you, LeBreton. Your father is a man who took things at face value, who maybe didn't question things enough. I never deliberately sought to take anything that did not belong to me. I was trying to follow the rules, but somewhere along the way something went wrong, and I'm here for it now, and I don't understand why.

[Senator Brazeau]

It is important to know that your father is an honourable man — not a perfect man, but a man who is always striving to become a better one. I am so sorry for what you have experienced. We will get through this. I love you.

Some Hon. Senators: Hear, hear!

Hon. Wilfred P. Moore: Senator, would you take a question?

Senator Brazeau: I would be more than happy to.

Senator Moore: Colleagues, I'd like to know from Senator Brazeau, did you ask at any time to appear before any Senate committee with legal counsel? And if you did, what was the response you got?

Senator Brazeau: Thank you for the question. I did attempt to — certainly I wrote and I did table the documents with respect to requesting and having questions for Internal Economy. But I did appear with legal counsel before the subcommittee and, I guess fortunately or unfortunately, the Conservative fund did not pay for my legal defence. But because of the conclusions of Internal Economy — the closed-door meetings that Internal Economy has and that went against the Deloitte report — then Senate administration told me that I had to pay for my own legal fees because I was not successful when I presented before the subcommittee of Internal Economy. But I haven't seen any transcripts and I received no reports with respect to that committee as well.

Senator Moore: I have a supplementary question. I just want to clarify. So you asked to have the opportunity to go before a committee with counsel and you were able to do that, but then, for payment of counsel reasons, that stopped from your own activity? Could you explain that? I didn't quite understand what you were saying there.

Senator Brazeau: Well, I'll try to explain it the best I can because I'm confused about the whole matter as well.

The facts are these: I appeared before the subcommittee of Internal Economy last December, and I was given the wink, wink, nudge, nudge by all three members at the time that I presented my case well. And I refuted the media reports that had come out, which was the mandate of this subcommittee to look into. But lo and behold, several months after that, the matter was referred to the Internal Economy Committee. So I was present with legal counsel before the subcommittee, but because Internal Economy deemed that I was not successful in my pitch to provide the documents, even though Deloitte said I was successful, they asked me to reimburse my legal fees because I was not successful at the subcommittee level.

But I never appeared before Internal Economy. As a matter of fact, I was invited to appear — and I forget the date — but I received notice about two hours before the committee meeting took place and was told that I could not speak and neither could my legal counsel speak, even if he were to appear at that time.

The Hon. the Speaker: Is there further debate?

Hon. Mobina S. B. Jaffer: Senator, will you take a question from me?

Senator Brazeau: Yes.

Senator Jaffer: Senator Brazeau, you and I have worked very closely on the Human Rights Committee, and you and I were travelling on committee business when the CTV interview happened.

• (2330)

The next morning I asked you, because I was just beside myself: Did you sleep? And you said you slept very well.

Can you explain why at that time you were so sure that your issues would be cleared?

Senator Brazeau: Well, again, thank you for the question. I'll let you know exactly why I slept well that night.

The media is the media. They have a job to do, and I respect that, but the way that the drive-by smear occurred in my case was absolute, for lack of a better word, "bullshit."

I slept well that night because I know where I live. I know my situation. I knew I had the documentation to prove where my primary residence was, and I did that. But the Internal Economy Committee, under Senator Tkachuk, said "No."

I slept very well because I had nothing to hide. I still have nothing to hide. I'll go under oath. Senator Tkachuk, will you go under oath? LeBreton, will you go under oath? Stewart Olsen, will you go under oath? Prime Minister, will you go under oath? I will. I have nothing to hide, and that's why I slept well.

Not only did I sleep well, but I had a very good conversation the next day, because Senator Tkachuk called me. I was in Saskatoon, in his hometown, and the phone call was: "Well, you know, we heard about the news report. Did you make any false claims?"

I said, "Absolutely not." I swore on my children's heads that I didn't make any false claims, and the Deloitte report concluded that I didn't make any false claims whatsoever.

He said, "Well, as long as you didn't make any false claims, you're good to go."

So, not only did I sleep well the initial night when the media report came out, but I slept well the second night because Senator Tkachuk told me I had nothing to worry about.

Hon. Don Meredith: Senator Brazeau, will you take a question?

Senator Brazeau: Absolutely.

Senator Meredith: Senator, you spoke so passionately and I was moved as you mentioned your children and your letter inscribed in the Senate for generations to come, because I believe this institution will last, contrary to others.

I am tonight just in shock that you keep saying you're here tonight for \$144.96. Can you explain that to this chamber? Did you pay back everything that Deloitte said you owed or that Internal Economy said that you owed? What is your status right now with respect to the amounts that are owed to the Senate?

Senator Brazeau: Thank you for the question.

First and foremost, I do not owe anything to anybody, because I have done nothing wrong; and if I did, I'd be the first one to stand here and say I made a mistake. But I did not make a mistake. I stand by that. I have all the facts to prove it. Yet, decisions are being taken contrary to looking at the facts.

Now, having said that, I am here for \$144.97 because the audit that your Internal Economy Committee mandated to do questioned, in my case, \$144.97. If people would take the time to read that Deloitte report in my case, they would see that. It's not Patrick Brazeau saying that. Deloitte said that. Not only did they say that; they didn't say I had to repay this \$144.97. They questioned what the invoice was. They didn't ask me to repay. All of a sudden, a few months go by, but the Internal Economy Committee now says, well, not only do I owe \$144.97, but now I owe two-and-a-half years of housing allocation because I shouldn't have claimed that.

Well, I have written proof, in black and white, that I was eligible to do that, and from Senate administration. Not only that, but I am the one who was a test case, the scapegoat for the four criteria for primary residence. So why is it that the Internal Economy Committee went against the Deloitte report and said: "No, no, no, Senator Brazeau. Yeah, you meet the four criteria, but we decided that, no, you can't"?

So perhaps the question is a question to you: Why is that?

Senator Meredith: Supplementary question: So what you're saying, then, Senator Brazeau, is that Deloitte gave their report; the Senate Internal Economy ignored that report, even though that report did not find you guilty in any way and that they went with what they wanted to go with. Is that what you're telling this chamber tonight?

Senator Brazeau: Yes.

Senator Plett: Senator, would you take another question?

Senator Brazeau: Absolutely.

Senator Plett: Aside from any personal problems that you may have, senator, is there an RCMP investigation going on in regards to anything that you may or may not have done in the Senate?

Senator Brazeau: Well, with respect to this specific issue, obviously I have read in the papers that there is an RCMP investigation going on with respect to my expenses. I have said, and I said on CBC earlier this week, that the RCMP have not personally approached me. And, given the facts, my issue will be a year in late November when this all came out. So I've been living with some insinuations for the last year, which many of you have not lived through, and that's all I can comment on that.

The Hon. the Speaker: Further debate? Senator Moore, on debate.

Senator Moore: I have a question. I'm just looking at this letter that you tabled on October 24, here in the Senate.

You asked — I guess your assistant asked on your behalf — if you rent an apartment in Ottawa, will your rent be reimbursed only for the months that the Senate is sitting? A reply came back: If you rent an apartment, you will have to submit a copy of your lease and the expenses will be reimbursed for all months, up to the limit of the budget. Then it goes on: I am including a link to the applicable guidelines, available on... And the link is given.

So did you check out those guidelines, and were you advised that you were performing or complying with those guidelines?

Senator Brazeau: Yes.

Hon. David Tkachuk: Just so that we're clear on that letter that you wrote to me: That letter was written, I believe, after the report was tabled in the chamber, Senator Brazeau; was it not?

Senator Brazeau: Yes.

Senator Tkachuk: I want to just remind senators that — maybe I should make it as part of my remarks. I think that's what I'll do, just to address some of the concerns that — I'll address some of the concerns that were made by Senator Brazeau.

The Hon. the Speaker: We're on debate. The Honourable Senator Tkachuk.

Senator Tkachuk: I just want to read back into the record the report, to add some context to Senator Brazeau's allegations in this place.

Senator Brazeau: To protect yourself.

Senator Tkachuk: I don't have to protect myself, Senator Brazeau.

The subcommittee of the Internal Economy Committee —

Senator Brazeau: You're a liar.

Senator Tkachuk: — was made up of three —

Senator, I don't mind answering comments — I don't think I have to listen to Senator Brazeau calling me a liar in this place if I'm trying to address the comments that he raised.

The Hon. the Speaker: Senator Tkachuk.

Senator Tkachuk: I'd like to just continue this, if I could, Senator Brazeau.

The audit subcommittee, chaired by Senator Marshall, made up of Senator Marshall, Senator Campbell and Senator Comeau, submitted a report to Internal Economy. The report was the twenty-third report, submitted on May 9, and was then presented in the Senate on May 9 and later on adopted.

The committee report, just so all honourable senators are reminded of it, reads as follows:

Your Committee acknowledges Deloitte's observation regarding the absence of criteria for determining primary residence. It is nonetheless our conclusion that the Primary and Secondary Residence Declaration form in force during the scope of these investigations and signed by Senator Brazeau is amply clear, as is the purpose and intent of the guidelines (as of June 2012, policy) to reimburse living expenses. In summary, the Declaration requires Senators to affirm whether their primary residence is "within 100 kilometres from Parliament Hill" or is "more than 100 kilometres from Parliament Hill." The purpose and intent of the policy instrument is to allow Senators, who do not have their home within 100 kilometres of Parliament Hill and would not be in Ottawa if it were not for the fact that they are Senators who must attend Senate business, to not incur additional costs for accommodations while in Ottawa to attend Senate business. To claim living expenses in the NCR, any residence owned or rented by a Senator must be a secondary residence, not the place where he or she ordinarily lives, for use by the Senator while in the NCR for Senate business. Your Subcommittee considers this language to be unambiguous and, plainly, if a Senator resides primarily in the NCR, he or she should not be claiming living expenses for the NCR.

• (2340)

That was the committee report. It was tabled in this place. It was unanimous. Senator Brazeau, there was no conspiracy here. It was adopted unanimously by the subcommittee. The Internal Economy Committee adopted the report unanimously, made up of Liberals and Conservatives, and it was tabled here in the Senate. There was an opportunity for debate and it was adopted by the Senate.

So the report has already made a decision as to your behaviour, Senator Brazeau. The decision has been made, and it has asked you to return the money that you claimed during that period of time.

Senator Brazeau: Deloitte didn't. Take a question?

Senator Tkachuk: Sure.

Senator Brazeau: Senator Tkachuk, thank you for that. That's a lot of fuzzy little words, but that's okay.

But did I hear you correctly in saying that Internal Economy received the report from the subcommittee on May 9? And if I heard you correctly, when was the date that Internal Economy brought out its report with respect to my housing claims?

Senator Tkachuk: I believe we received the report on May 8 and 9, and it was tabled in the Senate that afternoon.

Senator Brazeau: Is there a reason why I never got an advance copy or indication from the subcommittee of Internal Economy with respect to its findings prior to the final report being tabled, and the same with the report on Internal Economy, which I couldn't answer any questions, I couldn't provide any further documentation, couldn't respond to whatsoever? So it's a little bit ironic to me that you received the report from the subcommittee on May 8, as you've just alluded to, but then came out publicly with the report of Internal Economy on May 9.

It's a little bit bizarre, because I appeared in December before the subcommittee of Internal Economy, but it took several months before you got the report. Why is that?

Senator Tkachuk: I'm not sure what you're asking exactly, Senator Brazeau. Maybe you could be more explicit.

Senator Brazeau: I'll be quite clear. I appeared before the subcommittee of Internal Economy in December of 2012.

The Internal Economy Committee issued its report on May 9, 2013, and you just indicated that you received the report of the subcommittee on May 8. So why did it take so many months to receive the report of the subcommittee of Internal Economy? And isn't the timing a little bit ironic?

You need to go to caucus?

Senator Tkachuk: Senator Brazeau, I just wanted to consult with the chairman of the subcommittee.

After the meeting they had with you, they decided to refer the matter to Deloitte. Deloitte then presented the report back to the subcommittee. The subcommittee took some time to discuss the report and to draw their own conclusions, and that's exactly what they did.

Senator Brazeau: What were those conclusions? Because I never saw the report.

Senator Tkachuk: Senator Brazeau, the conclusions were tabled in the Senate, and I read a portion of them. They're easily accessible for any senator.

Senator Brazeau: Okay, final question: So as the former chair of Internal Economy, will you respond to the letter that I sent to you six months ago? Yes or no.

Senator Tkachuk: I responded to the letter by telling you that I received it and there were two documents that had already been presented. One, the matter had been settled; two, the letter that followed from me was a letter from me to you asking you to pay back the amount that you owed.

Senator Brazeau: Well, I lied — final question: If the Deloitte audit confirmed that I met all four criteria for primary residence, why did Internal Economy, under your leadership, decide otherwise?

Senator Tkachuk: The Internal Economy Committee, I believe, to put it bluntly, decided that a person should know where their primary residence is.

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

On debate.

Hon. Hugh Segal: Colleagues, I won't impose on your patience unduly. I know the hour is late and the discussions have been compelling and dramatic and difficult.

I want, first of all, to indicate that the problem with the motion, which I firmly oppose, as it lays before us, is that it moves to a consideration of punishment before the nuances about what might have constituted the violations, how they might have happened, why they might have happened, whether there was, in fact, significant confusion about the rules, whether, in fact, Deloitte used independently verified standards, as forensic auditors are supposed to do. None of those matters have been addressed.

I respect the chairman of the committee, my good friend Senator Comeau. I certainly am not one of those who has ever used the word "conspiracy," but I do believe that good people working in a committee process, when the standards are inappropriate, when the values that are being imposed with respect to what happened or didn't happen are vague, when there is lack of clarity about verification, can in fact produce conclusions that are themselves unfortunate and not necessarily tied to the facts.

That is not a reflection on the integrity of the good people who served on the committee or the hard work they did or even the professional competence and acuity of Deloitte, but it is a reflection of where we are. We had one representation to us tonight from one of the three senators with respect to his circumstance.

And let me be perfectly clear: There has been no response in this so-called process to issues about the lack of independent verification of the standards that were used, the fact that we've never discussed the twenty-seventh report in this chamber.

We are going to now move to a motion, either today or tomorrow, a vote, that imposes a huge sanction, even though the report that is the basis of that sentencing proposition has never been before us: never been before this chamber, never been discussed, never been debated. Pieces have emerged and been kicked around at the convenience of whoever was speaking at the time, but the actual whole report has never been before us.

I'm not going to quote Edmund Burke at great length, Senator Nolin, on due process but, the last I checked, Edmund Burke was not an American. My pure recollection is that he was a

Conservative who believed in the liberal and open and fair society in British history around the time of the American Revolution who argued for fairness and process.

[*Translation*]

Senator Nolin: That is why it was written in their Bill of Rights.

[*English*]

Senator Segal: And that is not, as you suggested, a foreign proposition to this country. I was stunned to hear you suggest that due process is not worthy of us because Americans believe in it as well. I was offended by that proposition.

• (2350)

Some Hon. Senators: Hey, hey. Come on.

Some Hon. Senators: Order.

Senator Segal: Colleagues, other issues that were laid before us have also not been addressed. For example, the new rules that appeared in May of 2012 and were proclaimed in June of 2012 with respect to spending specifically prohibited partisan activity, not only as it should be prohibited during election time, but in the between-election time when it was and had been the practice in this place for senators to go to riding associations or fundraising organizations to discuss the work of their committee, to discuss the work of this place, to lend support to their partisan affiliation, anticipated in the first guidelines we received when we came to this place.

I respect that the new rules changed that. I respect that the new rules said that was no longer appropriate, but now to bring a sentence down upon people like Senator Wallin, who followed the rules on the partisan process when they were in place, because they were changed, and then imposed retroactively in the audit, and for that we're going to bring in a sanction many times the amount of money under dispute, that is not, excuse the expression, Senator Nolin, "due process." That is not presumption of innocence. That is, in fact, imposing a retroactive, arbitrary, unfair judgment in a fashion that has the equivalent of professional capital punishment.

I am one of those people who happen to think that erring on the side of understanding is not a sign of weakness, that erring on the side of greater comprehension of what had transpired. I don't recall Senator Wallin ever saying she was perfect. I don't recall her ever saying she didn't make mistakes. In fact, she was the first of the senators involved in some of that controversy to go openly on the Canadian Broadcasting Corporation and answer those precise questions.

But the notion that we would now move to a sentencing motion because "It is time to get rid of this business; it has taken up too much of the government's time in this place," that we would throw people off a cliff because it is, in terms of time, convenient, is that what this chamber wants to be known for?

[Senator Segal]

Is that the reputation that distinguished members of this place who served in the law, served in the police, served in the judiciary, served in various governments as elected ministers think will enhance and protect the reputation of this chamber?

Colleagues, I submit to you, with great respect, that that is precisely what will destroy this chamber. That is precisely what will say to Canada: They're not elected; they have assumed huge powers; they have, in fact, made the case that constitutionally they are above the Charter of Rights. It doesn't apply to us. Presumption of innocence — interesting idea out there amongst the hoi polloi but it doesn't apply to us. We are special. We have the right to do any darned thing we want to do, and because we do have the right to do any darned thing, we are going to do any darned thing, and we are going to do it to three members of our own chamber because we can.

Isn't that a wonderful, wonderful reflection of the Canadian spirit, of the context of fairness?

[*Translation*]

The idea of justice, balance and respect for everyone.

[*English*]

That's where we are headed with the motion before us tonight.

Colleagues, let me try one other tiny example, if I may, from the transcripts that are public domain. We have had some new controversy in the news about a particular former employee of Senator Wallin, alleged to have written a letter — the RCMP seems to have some interest in the letter — alleging a whole bunch of things.

Colleagues, that matter was actually addressed by your Committee on Internal Economy. It was addressed and is in the transcript that was circulated to all of us last Monday. It's the transcript of the meeting of Tuesday, August 13, 2013.

And in that process, the matter of what happens when sometimes a disgruntled employee makes allegations, I asked the forensic accountants before us, "If you're forensic accountants, the disgruntled employee has got to be your bread and butter, not only on this matter but all matters. That's the source of information you get. People are unhappy; they may have a legitimate reason for being unhappy. So when you interviewed former members of Senator Wallin's staff, did you interview that individual?" "Yes, we did," they said. They were very forthcoming. Some who were there will remember. "And did you find what she said to be of any great significance?" They said, "No, not at all. The other two we spoke to were very helpful and forthcoming. They gave us information that helped us reach judgments, but that particular individual was of no value to us in the process." "Limited value," to be fair, was the term they used.

But what happens, colleagues, when we turn this room into a court of law? What happens is that there is no actual core process about evidentiary standards. It doesn't exist in any way, shape or

form. The media says something one night, the newspapers say something another day; it all filters in. We try to sort it out as best we can, try to be decent and fair and humane, but guess what. There isn't the protection of due process to allow us to actually do that job properly.

It's not because anybody amongst us — let me be clear: Those who disagree with me on this are as committed to decency and fairness as anybody else. I'm not suggesting that I am right and everyone else is wrong.

Everyone finds their own "right." Try to find the best way to be right. I respect that. But we don't have the processes in here to allow for proper evidentiary examination, for proper cross-examination, for confronting one's accuser, for having the accused face tougher, in fact, cross-examination. It doesn't exist. It is not how this place operates.

As a result, colleagues, we're in the process of, in my judgment, imposing a very arch, difficult, unfair judgment in a fashion that constitutes pretrial sentencing.

And I put to you that we can all whistle through the graveyard and say to ourselves, "Well, there may be a police investigation, not our problem. This is just a small internal matter we're regulating because we have to regulate our own internal matters." We think using the word "gross negligence" will not impact police officers going about their jobs honourably and honestly to try to figure out what the truth may be as they gather evidence for some Crown attorney some day?

Do we actually believe that we can affirm gross negligence and impose a fine that is equal to many times the amount of money under dispute for all of our colleagues, and this is not going to send a message to some honest police officer trying to do his or her job in defence of the law? That kind of naivety, I think, is unbecoming.

Colleagues, I want to make just a final comment about the process we have been through.

It occurs to me that one of the things that does happen in a proper process or circumstance is that we know about the relationships that exist between those who are doing the judging and those who are being judged.

• (0000)

We understand what the rules are in a judicial or quasi-judicial process. In this hothouse of a Senate, we all work together on committees, working against each other on issues and together on others. Relationships develop. Some are good; some are bad; some are frictional. There are nuances. None of that's part of the declared record. We don't know. We don't ask who on what committee might feel how about someone else. We have no way of knowing that. In the judicial process, actually, you can't mess around with that stuff. That stuff needs to be very clear. People have to recuse themselves if there's some reason they shouldn't be involved in that proposition.

If I was asked to sit in judgment upon one of our distinguished colleagues whom I had great respect and affection for and perhaps had become a friend of, I would say, "I can't do that. I can't sit on that. I have to recuse myself." It would be unfair. I wouldn't be even-handed or as balanced as I should be.

The problem that we face is that we don't know, as we sit here tonight, what any of those dynamics might have been with respect to the committee that tried to do its best and any of the three senators who were being judged by that committee. Upon that judgment we now are asked to pass a sentencing motion of the most intense variety in the history of this place.

Colleagues, I appeal to you to reflect for a moment on the options we have, to reflect on what we've heard in this chamber tonight and to ask ourselves, how do we really defend the honour of this place, the principles and values of Canada that this place has always defended, and how do we do the right thing? I argue it is not by voting for this particular motion before us tonight.

[*Translation*]

Senator Hervieux-Payette: Senator Segal, how do you explain that it took from late June to October to move the individual motions? We are now dealing with government motions, but we are still mired in the same mess. How do you explain that it took three months to move these three motions? As far as I know, there were no consultations on this side about this.

I would also like to know what criteria were used to establish identical punishments for three individuals with such completely different reports.

I think this is unprecedented. I have never seen such a case — first, someone is found guilty after their file is transferred to the RCMP, then the person is expelled from your caucus, which is an extremely serious sanction, and lastly, everyone moves on to another step. Is that one or two sentences for the same offence?

To our knowledge, it seems that you did not have the opportunity to gather the evidence you would need to hand down a sentence.

Senator Segal: Thank you for your question. I have never criticized the good faith of either the government or our Leader of the Government in the Senate. I think that the reasons to make a decision are clear. Our leader said that Canadians are very unhappy to see just how poorly public funds are being managed.

I think certain senators in a position of authority decided to do something to show Canadians that we are prepared to act decisively to clean everything up.

I have never had anything against good faith or the idea of taking action. Everyone, including your own leader, mentioned that we should perhaps apply other sanctions, in one situation or another.

[English]

My problem has never been with the desire to deal with the issue or the good faith of our Leader of the Government in the Senate to do so and to respect public anxiety about how well public funds are being managed. I respect that desire. My difficulty has always been with the instrument chosen. I think the motion before us, whatever the solid intent behind it, is deeply flawed, but I don't question the good faith or the desire to reflect legitimate Canadian anger about any perception that public funds aren't being spent properly and carefully.

The Hon. the Speaker: Is Senator Segal going to ask for another five minutes?

Hon. Senators: Agreed.

[Translation]

Senator Hervieux-Payette: Regardless of the decision that was made, do you not think that if we took that attitude towards all political issues in Canada, it would quickly become chaos?

We have a mandate. We represent our provinces, and it is up to us to make decisions. I think the fact that we will all be audited by the Auditor General should be enough to reassure the Canadian public that this important parliamentary institution is doing things the right way.

I do not understand how a Parliament, in a democratic government, can apply rules — not even regulations, as in legislative regulations — retroactively.

On the one hand, I do not understand this idea of retroactivity, and on the other hand, I remind senators that public opinion is governing our decisions.

[English]

Senator Segal: Senator Hervieux-Payette, I already said, and I did say when I spoke on the first round on the motions before us, that I had great difficulty with the precedent of this motion and what that precedent would mean in a host of areas.

[Translation]

I was troubled by the idea that a majority of our colleagues can decide to exclude anyone for any reason.

[English]

That precedent bothers me very much. The notion that we are imposing sanctions, that a police investigation is under way, that there were some modest sanctions imposed earlier, all of that does contribute to the difficult situation we find ourselves in. That's another reason the intent of dealing sanctions — I give the government credit for trying to do that. I think they reflect public opinion in major respects and the values we all share about how carefully public funds need to be managed, but my problem remains with the instrument before us.

[Senator Segal]

Senator Wallace: Would Senator Segal accept another question?

Senator Segal: Sure.

Senator Wallace: Senator, the suspension motion before us alleges gross negligence on the part of each of Senators Wallin, Brazeau and Duffy. I'm wondering if you would have any comment to make regarding the alleged act or acts of gross negligence as they pertain to Senator Wallin and if you have any comment you wish to offer with regard to those alleged acts as they pertain to Senator Duffy or Senator Brazeau?

Senator Segal: I said, Senator Wallace, when I first spoke, that the only committee meetings I attended were the meetings on August 12 and 13 of the Standing Committee on Internal Economy, Budgets, and Administration, and they were the ones that dealt with the Deloitte report on Senator Wallin. That's where I'm aware of sufficient detail to address your question. I'm not here to answer on behalf of Senator Wallin, but my impression, having attended the meeting, having read the report, and having had the responses from Deloitte to the questions asked both by myself and by other members of the committee, was that there were mistakes made. There were expenditures which Senator Wallin, herself, found to be inappropriate in the sense that receipts were sent to the wrong place. She paid those back voluntarily, before any audit was even begun.

• (0010)

Then there was a large category of expenses that were in dispute, in a sense, where our friends from Deloitte had a view about what constituted an appropriate expenditure and what didn't. I recall one in particular that comes to mind — the transcripts are there for everyone to see — and that was a suggestion that, on a particular date, the good senator had come to Ottawa, to 24 Sussex, for a reception being held in honour of performers and musicians from the Prairies who were going to be at the National Arts Centre. The Prime Minister was paying tribute to those wonderful young performers who were in Ottawa for that purpose for the summer, and it was Deloitte's conclusion that that decision of the senator to accept that invitation and to come to that event was a personal choice unrelated to Senate business.

I want to be fair to the auditors, with whom I have no problem in terms of professionalism and any of that stuff. I asked the question whether they did not think that their other judgments on that continuum of what constituted appropriate Senate business or otherwise might affect people's minds by that judgment, to which their response was that the 73 per cent — let's be clear, 100 per cent of the housing was fine, 73 per cent, according to Deloitte, of the other travel was fine, so we're dealing with 27 per cent. In response to my question about that event at 24 Sussex they said, well, they had to make judgment calls on the 73 per cent so, you know, it's a wash.

Let me say to you, if I may, when you're dealing with someone's reputation, you can't say it's a wash. That gave me profound trouble, and it troubles me still, about the judgments that went in. Do I think they were made in good faith? Yes. Do I think they

were made without malice? Absolutely. Do I think they were all right? Do I think they understood how the Senate operates or has operated? Absolutely not.

The Hon. the Speaker: I'm afraid Senator Segal's time is up. We're on debate, the Honourable Senator Fraser.

Senator Fraser: Honourable senators, I want to say a couple of things specifically about this motion and I am speaking in support of the motion in amendment by my leader, Senator Cowan. Just before I do that, I want to respond to some of the remarks made by Senator Plett and by Senator Runciman.

I found it most interesting that twice now Senator Plett has outlined what he thought would be an appropriate scheme of disciplinary actions for the Senate. I find it interesting because what he outlined is precisely what our rules now provide. Our Rules provide that when somebody is charged by way of indictment with a criminal offence, that person is put on leave of absence with pay. On first conviction, that person is suspended without pay and, at ultimate disposition of the case, if the conviction is overturned, the money is refunded. If not, then we proceed along the well-known constitutional paths. It's exactly what's in the rules now.

I gather from what Senator Mockler said earlier and from other things I've seen and heard that when the Leader of the Government was outlining courses of possible action to your caucus he didn't include leave of absence with pay. That was his decision. I'm not a member of the honourable senator's caucus, but I found that interesting that it was omitted.

I also would draw to Senator Plett's attention an element of something that happened before he came to this place. Senator Day referred to the Lavigne case and mentioned the subcommittee that examined the Lavigne case. That subcommittee did very careful, very thorough work. It was chaired by a former colleague of ours, Senator Yoine Goldstein, who was the subject of a long editorial just the other day in the *National Post*, which observed that he was one of the most respected lawyers in the country and that the Senate needed more Yoines. We could always do with more Yoines. He's a fine man, as well as a very fine lawyer.

In that subcommittee, Senator Lavigne had counsel, expert counsel, highly rated counsel, and I find it particularly interesting that the deputy chair of that subcommittee was Senator Nolin. I'm sure he recalls the events well. It's not a complete parallel, but it's worth noting, I would think.

Senator Runciman — and I will pardon him because we're all tired — cast doubt on my and my leader's sincerity. I greatly regret that. I consider Senator Runciman a fine colleague and a friend, and I would like to assure all colleagues that we are acting in complete sincerity. To anybody who thinks there's a contradiction, let me explain.

I said from the beginning that I thought it was appropriate for Senator Carignan to have brought in three separate motions as matters of Other Business. I thought that was a fine, honourable way to proceed. Indeed, as I pointed out in my point of order last week, they could have even have brought in what amounts to time

allocation, disposition measures, on those measures if they thought the debate was going on too long. They just didn't do it the right way.

Part of our difficulty with this matter is that there have been procedural fumbles all along the way. Now, I've made my share of procedural fumbles, so I'm not trying to cast excessive blame at anyone, but there have been quite a lot of them, which is why we are where we are now.

My difficulty with the proposal by Senator Nolin to divide the votes on this motion is not, therefore, because I have an objection in substance to the notion of treating the three cases separately. As we have frequently observed, they are not identical. My difficulty is that, as Deputy Leader of the Opposition, and this is true also for the Deputy Leader of the Government, whoever that person may be, whatever party we belong to, our job is also to try to preserve the integrity of the institution. It is my belief that the proposal made by Senator Nolin is such a radical departure from our practice and our conventions and, if adopted, such a powerful precedent, that we haven't even had the opportunity to consider for the future that it is important to attempt to clarify that matter. I regret having been pushed to take that position, but I think it's vital because it's part of our job to look not just at the case before us, but also at how what we do will affect future deliberations in this chamber.

Now, Senator Carignan and many others have been at pains to explain that we have the right and indeed the exclusive duty to act to discipline our members. I agree. In fact, I don't know anybody really who disagrees with that, but the question is: How do we exercise that power, that duty, that right?

Bear in mind that there is no appeal from our decisions here. People have talked about past experience. I remember once suspending a journalist who, in my view, had committed three of the most serious breaches of journalistic ethics that it is possible to commit. I suspended him. He had a right of appeal and, to my great chagrin, he won on appeal, but he had the right and he exercised his right. These senators would not have a right of appeal from a decision of the Senate.

There are too many questions that have not been answered. There's the whole question of the criteria used to arrive at these really grave punishments, but let me give you an example of three questions that have not been answered and that I believe should be answered before we reach a decision.

Somebody asked the following: It takes six years to qualify for pension. Does a two-year suspension count as part of the six years or not? The Senate's answer to that was that the information is not available at this time. What are we voting for?

• (0020)

Another question was this: If Senator Brazeau is not receiving a salary, how can we garnishee his salary? And the answer to that was that the information is not publicly available. What are we voting on? We don't know.

I have another question that sort of perturbs me. Much of the language in Senator Carignan's motion and in Senator Martin's motion mimics the language of our Rules in connection with

suspension. It talks about not having access to funds, goods, services and premises, moving, transportation, travel and telecommunications, and all that. It's in many ways parallel. But there's one possibly significant difference.

When the rules talk about what happens under suspension, the rules say that the sessional allowance otherwise payable to the senator shall be reduced by the amount remaining after any deductions required by any act of Parliament. In other words, the sessional allowance is paid but it's reduced, in effect, to zero net for the senator. But this motion says that the senators "shall not receive any remuneration, including any sessional allowance or living allowance." I would like to know why the difference when the other language in these motions is so similar. I'm not sure what the implications are. I'm not sure what the implications are for health insurance, for example. I don't know.

We don't know what we're voting on, and that, colleagues, is why I so strongly support Senator Cowan's motion that we refer this whole matter to the Rules Committee.

Here, I return to the parallel with the Internal Economy Committee. It has been suggested that Rules could set up a subcommittee. I think five people is probably better than three, but we need all kinds of answers and we don't have those answers, and we're not going to get them before the guillotine drops on this one.

And, finally, before we decide how to punish them, we need to understand a little bit more of what was going on in the minds and in the circumstances of these senators. Did they have even halfway reasonable grounds to believe that what they were doing was legitimate? I don't dispute that they needed to pay the money back. We have all agreed that the expenses were not in fact eligible, but why did they charge them? Did they think they had grounds for it?

Senator Duffy has provided documentary evidence that he was informed by the office of the then Leader of the Government in the Senate that it was fine. He could live here 99 per cent of the time and still claim. Well, advice from the office of the Leader of the Government is pretty heavy-duty stuff, right? And he also has provided documentary evidence that poor Nigel Wright, on whose shoulders so much blame has been shovelled, also told him he was in the clear; it was all just a smear. Senator Wallin has similarly indicated that she had serious advice that it was okay for her to claim what she claimed.

Senator Brazeau, in his statements this evening, has told us passionately that he believes, he still believes, he did nothing wrong. Now, in my view, as I listened to him, it seemed fairly clear that Senator Brazeau has, at the very least, a profound misunderstanding of the rules regarding primary residency for constitutional purposes versus the rules about people who live 100 kilometres away from Parliament Hill, and on that misunderstanding could hang a great many things.

Before we rush to judgment to impose this excessively — possibly not excessively, but certainly exceedingly strong, harsh punishment, we need to know more. Senator Wallace has suggested that we can only examine what has been said in this place, what has been brought to our attention in this place. But I

would agree that, as the Speaker ruled, the limits are not quite as narrow as that. The report on Senator Wallin, for example, has never been brought before this chamber, but the Speaker has ruled that we can take it into account. I think we can similarly take into account the Prime Minister's statement in the other place that he had examined Senator Wallin's expenses and they were just fine as far as he was concerned.

We need to examine more than we have been able to examine on the floor of the Senate. Otherwise, we fall into, in my view, a very dangerous pattern of adopting arbitrary measures.

Those of you who read *The Globe and Mail* will be familiar with the famous quotation from Junius, "The Subject who is truly loyal to the Chief Magistrate will neither advise nor consent to arbitrary measures." I think I have that right; I certainly have the sense of it right.

But that's what we are proposing to do here, colleagues. If we reject this amendment and accept the main motion, we are proposing arbitrary measures. We don't know why this particular punishment was picked, other than that Senator Carignan thought it was a good idea. We don't know what the implications are. We don't even know what the factual implications are of these motions.

I strongly urge you all, colleagues: Please, please vote in favour of the amendment, and that will give us all the opportunity that we so badly need in all justice — not only to these three senators, but to the Senate and to future senators. That will give us the opportunity we need to do justice to them all.

Hon. Jim Munson: Would Senator Fraser take a question?

Senator Fraser: Oh, sure.

Senator Munson: I was just curious with all of this, now I was going to say "tonight," but we're into another day. Do you have any idea what is going to happen tomorrow with this vote, what will happen to the three senators? What will take place? Is there a plan in place that they're marched out of here and that's the end of it? Do you have any idea of the process? Has there been any consultation, should this motion carry, about what this process might be?

Senator Fraser: There has not been consultation with me. Obviously, this is a topic of considerable interest. I continue to hope that what will happen tomorrow is that we decide to do some sober second thought in committee. I have not previously seen a senator frogmarched out of the Senate. I would hope that wouldn't happen this time, but that's assuming the motion I am supporting in amendment would fail, and I think senators have enough good sense to support it.

An Hon. Senator: Hear, hear!

Hon. Terry M. Mercer: Senator Fraser, one of the suggestions is that they'll get health benefits and life insurance, but our life insurance, if I recall, is based on our salary. You're insured for one year of your salary. If it's accidental, I think it's two years.

Since the three senators may not be getting any salary, what is the life insurance? And what insurer is going to cover a policy like this?

Senator Fraser: I think that's a truly excellent question and, for fear of running out of time, I didn't make it because Senator Segal had already raised it. I think it's a first-class question to which I do not have an answer. The motion before us now says —

The Hon. the Speaker: Honourable senators, pursuant to the order of this house adopted earlier yesterday, six hours has been exhausted, and I am obliged to put the question to the house, which is the motion in amendment moved by the Honourable Senator Cowan, seconded by the Honourable Senator Fraser, that the motion be referred to our Standing Committee on Rules, Procedures and the Rights of Parliament for consideration and report; that Senators Brazeau, Duffy and Wallin be invited to appear; and in light of the public interest in this matter, pursuant to rule 14-7(2), the proceedings be televised.

All those in favour of that motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to that motion will please say "nay."

Some Hon. Senators: Nay.

• (0030)

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

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. The procedure, honourable senators, two senators rising, this standing vote will be held tomorrow afternoon at 5:30 p.m., after which the main question will be put to the house at 5:30 tomorrow afternoon.

Honourable senators, it being past midnight, pursuant to rule 7-4(6), I declare the Senate adjourned to Tuesday, November 5, 2013, at 2 p.m., the Senate so decreeing.

(The Senate adjourned until 2 p.m. later this day.)

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

THE SPEAKER

The Honourable Noël A. Kinsella

THE LEADER OF THE GOVERNMENT

The Honourable Claude Carignan, P.C.

THE LEADER OF THE OPPOSITION

The Honourable James S. Cowan

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Gary W. O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

J. Greg Peters

THE MINISTRY

(In order of precedence)

(November 4, 2013)

The Right Hon. Stephen Joseph Harper	Prime Minister
The Hon. Bernard Valcourt	Minister of Aboriginal Affairs and Northern Development
The Hon. Robert Douglas Nicholson	Minister of National Defence
The Hon. Peter Gordon MacKay	Minister of Justice
	Attorney General of Canada
The Hon. Rona Ambrose	Minister of Health
The Hon. Diane Finley	Minister of Public Works and Government Services
The Hon. John Baird	Minister of Foreign Affairs
The Hon. Tony Clement	President of the Treasury Board
The Hon. James Michael Flaherty	Minister of Finance
The Hon. Peter Van Loan	Leader of the Government in the House of Commons
The Hon. Jason Kenney	Minister of Employment and Social Development
The Hon. Gerry Ritz	Minister of Agriculture and Agri-Food
The Hon. Christian Paradis	Minister of International Development
	Minister for La Francophonie
The Hon. James Moore	Minister of Industry
The Hon. Denis Lebel	Minister of the Economic Development Agency of Canada for the Regions of Quebec
	President of the Queen's Privy Council for Canada
	Minister of Infrastructure, Communities and Intergovernmental Affairs
The Hon. Leona Aglukkaq	Minister of the Canadian Northern Economic Development Agency
	Minister for the Arctic Council
	Minister of the Environment
The Hon. Lisa Raitt	Minister of Transport
The Hon. Gail Shea	Minister of Fisheries and Oceans
The Hon. Julian Fantino	Minister of Veterans Affairs
The Hon. Steven Blaney	Minister of Public Safety and Emergency Preparedness
The Hon. Edward Fast	Minister of International Trade
The Hon. Joe Oliver	Minister of Natural Resources
The Hon. Kerry-Lynne D. Findlay	Minister of National Revenue
The Hon. Shelly Glover	Minister of Canadian Heritage and Official Languages
The Hon. Chris Alexander	Minister of Citizenship and Immigration
The Hon. Kellie Leitch	Minister of Labour
	Minister of Status of Women
The Hon. Maxime Bernier	Minister of State (Small Business and Tourism, and Agriculture)
The Hon. Lynne Yelich	Minister of State (Foreign Affairs and Consular)
The Hon. Gary Goodyear	Minister of State (Federal Economic Development Agency for Southern Ontario)
The Hon. Rob Moore	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. John Duncan	Minister of State and Chief Government Whip
The Hon. Tim Uppal	Minister of State (Multiculturalism)
The Hon. Alice Wong	Minister of State (Seniors)
The Hon. Bal Gosal	Minister of State (Sport)
The Hon. Kevin Sorenson	Minister of State (Finance)
The Hon. Pierre Poilievre	Minister of State (Democratic Reform)
The Hon. Candice Bergen	Minister of State (Social Development)
The Hon. Greg Rickford	Minister of State (Science and Technology, and Federal Economic Development Initiative for Northern Ontario)
The Hon. Michelle Rempel	Minister of State (Western Economic Diversification)

SENATORS OF CANADA

ACCORDING TO SENIORITY

(November 4, 2013)

Senator	Designation	Post Office Address
The Honourable		
Anne C. Cools	Toronto Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Colin Kenny	Rideau	Ottawa, Ont.
Gerald J. Comeau, P.C.	Nova Scotia	Saulnierville, N.S.
Donald H. Oliver	South Shore	Halifax, N.S.
Noël A. Kinsella, <i>Speaker</i>	Fredericton-York-Sunbury	Fredericton, N.B.
Janis G. Johnson	Manitoba	Gimli, Man.
A. Raynell Andreychuk	Saskatchewan	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton, P.C.	Ontario	Manotick, Ont.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
Marie-P. Charette-Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Wilfred P. Moore	Stanhope St./South Shore	Chester, N.S.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Ringuette	New Brunswick	Edmundston, N.B.
Percy E. Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire, Que.
Terry M. Mercer	Northend Halifax	Caribou River, N.S.
Jim Munson	Ottawa/Rideau Canal	Ottawa, Ont.
Claudette Tardif	Alberta	Edmonton, Alta.
Grant Mitchell	Alberta	Edmonton, Alta.
Elaine McCoy	Alberta	Calgary, Alta.
Lillian Eva Dyck	Saskatchewan	Saskatoon, Sask.
Art Eggleton, P.C.	Ontario	Toronto, Ont.
Nancy Ruth	Cluny	Toronto, Ont.
Romeo Antonius Dallaire	Gulf	Sainte-Foy, Que.
James S. Cowan	Nova Scotia	Halifax, N.S.
Andrée Champagne, P.C.	Grandville	Saint-Hyacinthe, Que.
Hugh Segal	Kingston-Frontenac-Leeds	Kingston, Ont.
Larry W. Campbell	British Columbia	Vancouver, B.C.
Dennis Dawson	Lauson	Sainte-Foy, Que.
Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations, N.B.

Senator	Designation	Post Office Address
Stephen Greene	Halifax-The Citadel	Halifax, N.S.
Michael L. MacDonald	Cape Breton	Dartmouth, N.S.
Michael Duffy	Prince Edward Island	Cavendish, P.E.I.
Percy Mockler	New Brunswick	St. Leonard, N.B.
John D. Wallace	New Brunswick	Rothsay, N.B.
Michel Rivard	The Laurentides	Quebec, Que.
Nicole Eaton	Ontario	Caledon, Ont.
Irving Gerstein	Ontario	Toronto, Ont.
Pamela Wallin	Saskatchewan	Wadena, Sask.
Nancy Greene Raine	Thompson-Okanagan-Kootenay	Sun Peaks, B.C.
Yonah Martin	British Columbia	Vancouver, B.C.
Richard Neufeld	British Columbia	Fort St. John, B.C.
Daniel Lang	Yukon	Whitehorse, Yukon
Patrick Brazeau	Repentigny	Maniwaki, Que.
Leo Housakos	Wellington	Laval, Que.
Suzanne Fortin-Duplessis	Rougemont	Quebec, Que.
Donald Neil Plett	Landmark	Landmark, Man.
Linda Frum	Ontario	Toronto, Ont.
Claude Carignan, P.C.	Mille Isles	Saint-Eustache, Que.
Jacques Demers	Rigaud	Hudson, Que.
Judith G. Seidman	De la Durantaye	Saint-Raphaël, Que.
Carolyn Stewart Olsen	New Brunswick	Sackville, N.B.
Kelvin Kenneth Ogilvie	Annapolis Valley - Hants	Canning, N.S.
Dennis Glen Patterson	Nunavut	Iqaluit, Nunavut
Bob Runciman	Ontario—Thousand Islands and Rideau Lakes	Brockville, Ont.
Pierre-Hugues Boisvenu	La Salle	Sherbrooke, Que.
Elizabeth (Beth) Marshall	Newfoundland and Labrador	Paradise, Nfld. & Lab.
Rose-May Poirier	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent, N.B.
David Braley	Ontario	Burlington, Ont.
Salma Ataullahjan	Toronto—Ontario	Toronto, Ont.
Don Meredith	Ontario	Richmond Hill, Ont.
Fabian Manning	Newfoundland and Labrador	St. Bride's, Nfld. & Lab.
Larry W. Smith	Saurel	Hudson, Que.
Josée Verner, P.C.	Montarville	Saint-Augustin-de-Desmaures, Que.
Betty E. Unger	Alberta	Edmonton, Alta.
JoAnne L. Buth	Manitoba	Winnipeg, Man.
Norman E. Doyle	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Asha Seth	Ontario	Toronto, Ont.
Ghislain Maltais	Shawinigan	Quebec City, Que.
Jean-Guy Dagenais	Victoria	Blainville, Que.
Vernon White	Ontario	Ottawa, Ont.
Paul E. McIntyre	New Brunswick	Charlo, N.B.
Thomas Johnson McInnis	Nova Scotia	Sheet Harbour, N.S.
Tobias C. Enverga, Jr.	Ontario	Toronto, Ont.
Thanh Hai Ngo	Ontario	Orleans, Ont.
Diane Bellemare	Alma	Outremont, Que.
Douglas John Black	Alberta	Canmore, Alta.
David Mark Wells	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Lynn Beyak	Ontario	Dryden, Ont.
Victor Oh	Ontario	Mississauga, Ont.
Denise Leanne Batters	Saskatchewan	Regina, Sask.
Scott Tannas	Alberta	High River, Alta.

SENATORS OF CANADA

ALPHABETICAL LIST

(November 4, 2013)

Senator	Designation	Post Office Address	Political Affiliation
The Honourable			
Andreychuk, A. Raynell	Saskatchewan	Regina, Sask.	Conservative
Ataullahjan, Salma	Toronto—Ontario	Toronto, Ont.	Conservative
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Liberal
Batters, Denise Leanne	Saskatchewan	Regina, Sask.	Conservative
Bellemare, Diane	Alma	Outremont, Que.	Conservative
Beyak, Lynn	Ontario	Dryden, Ont.	Conservative
Black, Douglas John	Alberta	Canmore, Alta.	Conservative
Boisvenu, Pierre-Hugues	La Salle	Sherbrooke, Que.	Conservative
Braley, David	Ontario	Burlington, Ont.	Conservative
Brazeau, Patrick	Repentigny	Maniwaki, Que.	Independent
Buth, JoAnne L.	Manitoba	Winnipeg, Man.	Conservative
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Liberal
Campbell, Larry W.	British Columbia	Vancouver, B.C.	Liberal
Carignan, Claude, P.C.	Mille Isles	Saint-Eustache, Que.	Conservative
Champagne, Andrée, P.C.	Grandville	Saint-Hyacinthe, Que.	Conservative
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Liberal
Charette-Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Liberal
Comeau, Gerald J., P.C.	Nova Scotia	Saulnierville, N.S.	Conservative
Cools, Anne C.	Toronto Centre-York	Toronto, Ont.	Independent
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Liberal
Cowan, James S.	Nova Scotia	Halifax, N.S.	Liberal
Dagenais, Jean-Guy	Victoria	Blainville, Que.	Conservative
Dallaire, Roméo Antonius	Gulf	Sainte-Foy, Que.	Liberal
Dawson, Dennis	Lauzon	Ste-Foy, Que.	Liberal
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Liberal
Demers, Jacques	Rigaud	Hudson, Que.	Conservative
Downe, Percy E.	Charlottetown	Charlottetown, P.E.I.	Liberal
Doyle, Norman E.	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Conservative
Duffy, Michael	Prince Edward Island	Cavendish, P.E.I.	Independent
Dyck, Lillian Eva	Saskatchewan	Saskatoon, Sask.	Liberal
Eaton, Nicole	Ontario	Caledon, Ont.	Conservative
Eggleton, Art, P.C.	Ontario	Toronto, Ont.	Liberal
Enverga, Tobias C., Jr.	Ontario	Toronto, Ont.	Conservative
Fortin-Duplessis, Suzanne	Rougemont	Quebec, Que.	Conservative
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Liberal
Frum, Linda	Ontario	Toronto, Ont.	Conservative
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Liberal
Gerstein, Irving	Ontario	Toronto, Ont.	Conservative
Greene, Stephen	Halifax - The Citadel	Halifax, N.S.	Conservative
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Liberal
Housakos, Leo	Wellington	Laval, Que.	Conservative
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Liberal
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Liberal
Johnson, Janis G.	Manitoba	Gimli, Man.	Conservative
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Liberal
Kenny, Colin	Rideau	Ottawa, Ont.	Liberal
Kinsella, Noël A., <i>Speaker</i>	Fredericton-York-Sunbury	Fredericton, N.B.	Conservative

Senator	Designation	Post Office Address	Political Affiliation
Lang, Daniel	Yukon	Whitehorse, Yukon	Conservative
LeBreton, Marjory, P.C.	Ontario	Manotick, Ont.	Conservative
Lovelace Nicholas, Sandra	New Brunswick	Tobique First Nations, N.B.	Liberal
MacDonald, Michael L.	Cape Breton	Dartmouth, N.S.	Conservative
Maltais, Ghislain	Shawinigan	Quebec City, Que.	Conservative
Manning, Fabian	Newfoundland and Labrador	St. Bride's, Nfld. & Lab.	Conservative
Marshall, Elizabeth (Beth)	Newfoundland and Labrador	Paradise, Nfld. & Lab.	Conservative
Martin, Yonah	British Columbia	Vancouver, B.C.	Conservative
Massicotte, Paul J.	De Lanaudière	Mont-Saint-Hilaire, Que.	Liberal
McCoy, Elaine	Alberta	Calgary, Alta.	Independent (PC)
McInnis, Thomas Johnson	Nova Scotia	Sheet Harbour, N.S.	Conservative
McIntyre, Paul E.	New Brunswick	Charlo, N.B.	Conservative
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	Liberal
Merchant, Pana	Saskatchewan	Regina, Sask.	Liberal
Meredith, Don	Ontario	Richmond Hill, Ont.	Conservative
Mitchell, Grant	Alberta	Edmonton, Alta.	Liberal
Mockler, Percy	New Brunswick	St. Leonard, N.B.	Conservative
Moore, Wilfred P.	Stanhope St./South Shore	Chester, N.S.	Liberal
Munson, Jim	Ottawa/Rideau Canal	Ottawa, Ont.	Liberal
Nancy Ruth	Cluny	Toronto, Ont.	Conservative
Neufeld, Richard	British Columbia	Fort St. John, B.C.	Conservative
Ngo, Thanh Hai	Ontario	Orleans, Ont.	Conservative
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	Conservative
Ogilvie, Kelvin Kenneth	Annapolis Valley - Hants	Canning, N.S.	Conservative
Oh, Victor	Ontario	Mississauga, Ont.	Conservative
Oliver, Donald H.	South Shore	Halifax, N.S.	Conservative
Patterson, Dennis Glen	Nunavut	Iqaluit, Nunavut	Conservative
Plett, Donald Neil	Landmark	Landmark, Man.	Conservative
Poirier, Rose-May	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent, N.B.	Conservative
Raine, Nancy Greene	Thompson-Okanagan-Kootenay	Sun Peaks, B.C.	Conservative
Ringnette, Pierrette	New Brunswick	Edmundston, N.B.	Liberal
Rivard, Michel	The Laurentides	Quebec, Que.	Conservative
Rivest, Jean-Claude	Stadacona	Quebec, Que.	Independent
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Liberal
Runciman, Bob	Ontario—Thousand Islands and Rideau Lakes	Brockville, Ont.	Conservative
Segal, Hugh	Kingston-Frontenac-Leeds	Kingston, Ont.	Conservative
Seth, Asha	Ontario	Toronto, Ont.	Conservative
Seidman, Judith G.	De la Durantaye	Saint-Raphaël, Que.	Conservative
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Liberal
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Liberal
Smith, Larry W.	Saurel	Hudson, Que.	Conservative
Stewart Olsen, Carolyn	New Brunswick	Sackville, N.B.	Conservative
Tannas, Scott	Alberta	High River, Alta.	Conservative
Tardif, Claudette	Alberta	Edmonton, Alta.	Liberal
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	Conservative
Unger, Betty E.	Alberta	Edmonton, Alta.	Conservative
Verner, Josée, P.C.	Montarville	Saint-Augustin-de-Desmaures, Que.	Conservative
Wallace, John D.	New Brunswick	Rothesay, N.B.	Conservative
Wallin, Pamela	Saskatchewan	Wadena, Sask.	Independent
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Liberal
Wells, David Mark	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Conservative
White, Vernon	Ontario	Ottawa, Ont.	Conservative

SENATORS OF CANADA
BY PROVINCE AND TERRITORY

(November 4, 2013)

ONTARIO—24

Senator	Designation	Post Office Address
The Honourable		
1 Anne C. Cools	Toronto Centre-York	Toronto
2 Colin Kenny	Rideau	Ottawa
3 Marjory LeBreton, P.C.	Ontario	Manotick
4 Marie-P. Charette-Poulin	Northern Ontario	Ottawa
5 David P. Smith, P.C.	Cobourg	Toronto
6 Jim Munson	Ottawa/Rideau Canal	Ottawa
7 Art Eggleton, P.C.	Ontario	Toronto
8 Nancy Ruth	Cluny	Toronto
9 Hugh Segal	Kingston-Frontenac-Leeds	Kingston
10 Nicole Eaton	Ontario	Caledon
11 Irving Gerstein	Ontario	Toronto
12 Linda Frum	Ontario	Toronto
13 Bob Runciman	Ontario—Thousand Islands and Rideau Lakes	Brockville
14 David Braley	Ontario	Burlington
15 Salma Ataullahjan	Toronto—Ontario	Toronto
16 Don Meredith	Ontario	Richmond Hill
17 Asha Seth	Ontario	Toronto
18 Vernon White	Ontario	Ottawa
19 Tobias C. Enverga, Jr.	Ontario	Toronto
20 Thanh Hai Ngo	Ontario	Orleans
21 Lynn Beyak	Ontario	Dryden
22 Victor Oh	Ontario	Mississauga
23		
24		

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
The Honourable		
1 Charlie Watt	Inkerman	Kuujuaq
2 Jean-Claude Rivest	Stadacona	Quebec
3 Pierre Claude Nolin	De Salaberry	Quebec
4 Céline Hervieux-Payette, P.C.	Bedford	Montreal
5 Serge Joyal, P.C.	Kennebec	Montreal
6 Joan Thorne Fraser	De Lorimier	Montreal
7 Paul J. Massicotte	De Lanaudière	Mont-Saint-Hilaire
8 Roméo Antonius Dallaire	Gulf	Sainte-Foy
9 Andrée Champagne, P.C.	Grandville	Saint-Hyacinthe
10 Dennis Dawson	Lauzon	Ste-Foy
11 Michel Rivard	The Laurentides	Quebec
12 Patrick Brazeau	Repentigny	Maniwaki
13 Leo Housakos	Wellington	Laval
14 Suzanne Fortin-Duplessis	Rougemont	Quebec
15 Claude Carignan, P.C.	Mille Isles	Saint-Eustache
16 Jacques Demers	Rigaud	Hudson
17 Judith G. Seidman	De la Durantaye	Saint-Raphaël
18 Pierre-Hugues Boisvenu	La Salle	Sherbrooke
19 Larry W. Smith	Saurel	Hudson
20 Josée Verner, P.C.	Montarville	Saint-Augustin-de-Desmaures
21 Ghislain Maltais	Shawinigan	Quebec City
22 Jean-Guy Dagenais	Victoria	Blainville
23 Diane Bellemare	Alma	Outremont
24	De la Vallière	

SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
The Honourable		
1 Gerald J. Comeau, P.C.	Nova Scotia	Saulnierville
2 Donald H. Oliver	South Shore	Halifax
3 Wilfred P. Moore	Stanhope St./South Shore	Chester
4 Jane Cordy	Nova Scotia	Dartmouth
5 Terry M. Mercer	Northend Halifax	Caribou River
6 James S. Cowan	Nova Scotia	Halifax
7 Stephen Greene	Halifax - The Citadel	Halifax
8 Michael L. MacDonald	Cape Breton	Dartmouth
9 Kelvin Kenneth Ogilvie	Annapolis Valley - Hants	Canning
10 Thomas Johnson McInnis	Nova Scotia	Sheet Harbour

NEW BRUNSWICK—10

Senator	Designation	Post Office Address
The Honourable		
1 Noël A. Kinsella, <i>Speaker</i>	Fredericton-York-Sunbury	Fredericton
2 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
3 Joseph A. Day	Saint John-Kennebecasis, New Brunswick	Hampton
4 Pierrette Ringuette	New Brunswick	Edmundston
5 Sandra Lovelace Nicholas	New Brunswick	Tobique First Nations
6 Percy Mockler	New Brunswick	St. Leonard
7 John D. Wallace	New Brunswick	Rothsay
8 Carolyn Stewart Olsen	New Brunswick	Sackville
9 Rose-May Poirier	New Brunswick—Saint-Louis-de-Kent	Saint-Louis-de-Kent
10 Paul E. McIntyre	New Brunswick	Charlo

PRINCE EDWARD ISLAND—4

Senator	Designation	Post Office Address
The Honourable		
1 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
2 Elizabeth M. Hubley	Prince Edward Island	Kensington
3 Percy E. Downe	Charlottetown	Charlottetown
4 Michael Duffy	Prince Edward Island	Cavendish

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
The Honourable		
1 Janis G. Johnson	Manitoba	Gimli
2 Maria Chaput	Manitoba	Sainte-Anne
3 Donald Neil Plett	Landmark	Landmark
4 JoAnne L. Buth	Manitoba	Winnipeg
5		
6		

BRITISH COLUMBIA—6

Senator	Designation	Post Office Address
The Honourable		
1 Mobina S. B. Jaffer	British Columbia	North Vancouver
2 Larry W. Campbell	British Columbia	Vancouver
3 Nancy Greene Raine	Thompson-Okanagan-Kootenay	Sun Peaks
4 Yonah Martin	British Columbia	Vancouver
5 Richard Neufeld	British Columbia	Fort St. John
6		

SASKATCHEWAN—6

Senator	Designation	Post Office Address
The Honourable		
1 A. Raynell Andreychuk	Saskatchewan	Regina
2 David Tkachuk	Saskatchewan	Saskatoon
3 Pana Merchant	Saskatchewan	Regina
4 Lillian Eva Dyck	Saskatchewan	Saskatoon
5 Pamela Wallin	Saskatchewan	Wadena
6 Denise Leanne Batters	Saskatchewan	Regina

ALBERTA—6

Senator	Designation	Post Office Address
The Honourable		
1 Claudette Tardif	Alberta	Edmonton
2 Grant Mitchell	Alberta	Edmonton
3 Elaine McCoy	Alberta	Calgary
4 Betty E. Unger	Alberta	Edmonton
5 Douglas John Black	Alberta	Canmore
6 Scott Tannas	Alberta	High River

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
The Honourable		
1 George Furey	Newfoundland and Labrador	St. John's
2 George S. Baker, P.C.	Newfoundland and Labrador	Gander
3 Elizabeth (Beth) Marshall	Newfoundland and Labrador	Paradise
4 Fabian Manning	Newfoundland and Labrador	St. Bride's
5 Norman E. Doyle	Newfoundland and Labrador	St. John's
6 David Wells	Newfoundland and Labrador	St. John's

NORTHWEST TERRITORIES—1

Senator	Designation	Post Office Address
The Honourable		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

Senator	Designation	Post Office Address
The Honourable		
1 Dennis Glen Patterson	Nunavut	Iqaluit

YUKON—1

Senator	Designation	Post Office Address
The Honourable		
1 Daniel Lang	Yukon	Whitehorse

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