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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—Subsidiary Motion—Votes Deferred

Speech by:

The Honourable Claudette Tardif

Monday, November 4, 2013

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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

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 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 the 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 respect for procedural safeguards, 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 present all the relevant facts within a process that respects the rule of law, the presumption of innocence and the respect for procedural safeguards. 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 fairness and equity.