

# **C-51 and the Senate vote have violated the procedural Doctrine of Legitimate Expectation**

Posted by Joan Russow

Friday, 12 June 2015 14:15 - Last Updated Friday, 12 June 2015 14:25

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**By Joan Russow**

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## **THE DOCTRINE OF LEGITIMATE EXPECTATION**

**The Doctrine of legitimate Expectations has the following components**

- **Not breaking and undertaking as one pleases**
- **Compatibility with public duty**
- **Public interest may be better served by honouring their undertaking than by breaking it**
- **Fulfilling the expectation must assist in performing rather than inhibit the performance of its statutory duties**

**A corporation can give an undertaking and break it as they please. So long as the performance of the undertaking is compatible with their public duty, they must honour it. And I should have thought that this undertaking was so compatible....The public interest may be better served; by honouring their undertaking than by breaking it. (Lord Denning, Central London Property Trust Ltd. v High Trees House Ltd. [1947] KB 130, 594**

**If I thought that the effect of granting to the applicants the relief sought was to prevent the council validly using those powers which Parliament has conferred on it, I would refuse relief. But that is not the present case. It seems to me the relief claimed will in the end, as counsel for the corporation ultimately conceded assist the council to perform rather than inhibit the performance of its statutory duties” (Lord Roskill Central London Property Trust Ltd. v High Trees House Ltd. [1947] KB 130, 596)**

**The Citizens of Canada have a legitimate expectation that the government of Canada would not break an undertaking as it pleases. The Canadian government, in C51, has explicitly passed an act that would break the undertaking to guarantee citizens the rights and freedoms that are guaranteed under the Charter of rights and freedoms. In C51 the act provides that, under certain circumstances, a government agency, such as CSIS could request permission to violate the Charter of Rights and Freedoms.**

**In addition, there is no doubt that the Public interest would be better served by the Canadian government's honouring rather than by breaking its obligations under the Charter, and that by fulfilling the expectation rather than inhibiting it would better lead to the performance of its statutory duties.**

**As C51 permits that, under certain conditions, the violation of sections of the Charter and other statutory laws, the Canadian rule of law, as well as the international rule of law under the legally binding , International Covenant on Civil and Political rights will be compromised**

## **QUESTIONABLE ROLE OF THE SENATE**

**C51 went to the senate after there was the release of the Auditor General's report on Election Spending.; this Report can be seen at**

[http://www.oag-bvg.gc.ca/internet/English/parl\\_otp\\_201506\\_e\\_40494.html](http://www.oag-bvg.gc.ca/internet/English/parl_otp_201506_e_40494.html)

### **The CBC reported:**

· **The three most powerful figures in the Senate are among those flagged by the auditor general to repay inappropriate expenses.**

· **Senate Speaker Leo Housakos, government leader Claude Carignan and Opposition leader James Cowan have confirmed they are among 21 senators who have been found to have filed ineligible expenses.**

**Another nine senators were found to have "big problems" with ineligible expenses and their cases will be referred to the RCMP for criminal investigation following the auditor general's exhaustive two-year review.**

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**This report also follow on the three senators, Duffy, Wallin, Brazeau who have already been**

**CBC also reported that “the Senate leadership has decided to hold off on acting on any of the recommendations outlined in the report, sources.**

**And that**

**“Conservative senators were told on Monday night during an emergency meeting the caucus would not immediately act upon the recommendations, in what appears to be a bid to underline the Senate's independence”.( <http://www.cbc.ca/news/politics/auditor-general-s-report-into-senate-expense-claims-released-today-1.3105002>**

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**Given the cloud that is hanging over the senate, I would think that Canadian citizens would have a legitimate expectation that the Senate and the government would have, in the public interest, undertaken to postpone the vote on C51 in the senate until after the investigation had been completed**