



# DEBATES OF THE SENATE

---

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 10

---

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Motion to Authorize Committee to Examine and Report on  
Committee Membership—Debate Continued

Speech by:

The Honourable Diane Bellemare

Tuesday, February 2, 2016

## THE SENATE

Tuesday, February 2, 2016

### RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

#### MOTION TO AUTHORIZE COMMITTEE TO EXAMINE AND REPORT ON COMMITTEE MEMBERSHIP— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Wallace, seconded by the Honourable Senator McCoy:

That the Standing Committee on Rules, Procedures and the Rights of Parliament, when and if it is formed, be authorized to examine and report on Senate practices, and provisions in the Rules of the Senate, relating to committees, including senators' memberships on committees, in order to evaluate whether all senators:

- (a) are, in practice, treated equally, and with fairness and equity, irrespective of whether they sit as government members, as opposition members, as members of recognized parties or as independent senators; and
- (b) have reasonable and equal opportunities to fully participate in and contribute, through committee work and membership, to this chamber's role as a complementary legislative body of sober second thought, thereby enabling all senators to adequately fulfill their constitutional roles and responsibilities;

That in conducting this evaluation the Rules Committee pay particular attention to:

- (a) the process for selecting members of the Committee of Selection, so that all senators can be considered for membership on that committee, and so that the interests of all senators, whether they sit as government members, as opposition members, as members of recognized parties or as independent senators, are represented in the membership of that committee; and
- (b) the process whereby the Committee of Selection develops its recommendations for membership of the other committees;

That the Rules Committee also take into account the anticipated increase in the number of senators who are not members of a recognized party and how this emerging reality should be taken into account, including during the current session;

That the Rules Committee recommend necessary amendments to the Rules and adjustments in Senate practice based upon the results of its examination; and

That the Rules Committee present its final report on this study to the Senate no later than March 31, 2016.

**Hon. Diane Bellemare:** I rise today to comment on the motion of Senator Wallace. First, I want to thank Senator Wallace for bringing this motion and raising issues that have waited too long to be addressed. It is also of immense importance for the new senators who will be appointed and for the capacity to accomplish their constitutional duties. This motion could bring changes in our practices and solve some problems that we, as senators, experience or have experienced in this chamber.

[Translation]

Second, I want to stress that this motion is part of our efforts to modernize our institution. Adopting the motion could help improve the image of the Senate of Canada by making it a less partisan and more independent institution than it has been in the past.

My observations today pertain to the broader context of modernization of the Senate and the imminent arrival of new senators who aren't affiliated with any political party. I would argue that the changes proposed in this motion, although necessary in my view, don't go far enough to transform the Senate into the place of sober second thought that Canadians clamour for.

In a few moments, I will propose an amendment to Senator Wallace's motion to have the Committee on Rules, Procedures and the Rights of Parliament report to the Senate on the changes that would need to be made to the *Rules of the Senate* to allow a group of senators who aren't affiliated with any political party to form a recognized group of independent senators whose status would be similar to that of a recognized party.

Why does the creation of a group of independent senators seem necessary?

Whether we like it or not, in recent years, the Senate's reputation has been seriously tarnished, and doubts about its usefulness have spread among the public and also among the members of some political parties in the House of Commons. The Senate of Canada has to work in troubled waters. It has to take control of itself and change its rules and practices to promote what Canadians want us to do, which is give sober second thought to legislation coming from the House of Commons.

In that regard, restoring the Senate's reputation is not simply a matter of developing a communications strategy. Today, too many Canadians feel that senators' loyalty to the party to which they belong is more important than their loyalty to defending the interests of Canadians and the common good of the country. That is why many people believe that the Senate is a waste of public money.

Currently, our rules and practices favour partisanship. It can even be shown that partisanship is institutionalized in our Rules; one example is the difficulty that independent senators have in performing their constitutional duty. If our Rules are preventing independent senators from doing their work properly, there is an institutional problem that must be fixed.

Senator Wallace's motion addresses this problem by asking the Standing Committee on Rules, Procedures and the Rights of Parliament to recommend changes in the rules after evaluating whether all senators are, in practice, treated with fairness and equity. Senator Wallace's motion also asks the committee to take into account the anticipated increase in the number of senators who are not members of a party and the repercussions of that reality.

Senator Wallace's approach is intended to give each and every senator the same status, whether he or she is a member of a political party or not.

• (1610)

This individualistic approach is interesting. However, in my opinion, it does not go far enough. It is not enough to appoint senators who are considered independent. We must also establish the conditions that will enable these senators to remain independent. We must undertake institutional changes to make this possible.

Before going any further, I believe it is important to answer the following question: Can we imagine a Canadian Senate comprised solely of unaffiliated senators? Is this realistic? Is this desirable? When we examine how Senate institutions function around the world, senators in major democratic countries are usually affiliated with a political party. According to political scientists Meg Russell and Maria Sciara in their article on the role of crossbenchers in the House of Lords, which appeared in the scientific journal *Parliamentary Affairs*, and I quote:

[English]

It is generally accepted that parliaments in modern democracies are party dominated.

A survey of information within the Inter-Parliamentary Union's database, realized in 2006, found few Parliaments where the numbers of independent senators were significant. This can be explained, as suggested by Russell and Sciara, by the fact that senators are elected in many countries.

[Translation]

The United Kingdom is one country with a significant number of independent senators. In the United Kingdom, Lords are appointed, as is the case in Canada. Independent Lords make up over 20 per cent of the upper chamber, and since 2000, they have accounted for approximately 20 per cent of new appointments. The other 80 per cent are appointments of Lords who are affiliated with political parties. As you are aware, the independent commission that recommends the list of people who may qualify to become Lords is composed of independent Lords. Candidates can also be recommended by political parties. In the United Kingdom, the commission's role is to review all the candidates, those put forward by the people and by the political parties.

In light of the experiences of other countries, I think it is unrealistic to think that the Senate of Canada could be made up entirely of unaffiliated senators. If nothing else, this might not be good for the quality of the debates. Even in federations, where senators are mandated to represent a certain region, they are also affiliated with a political party. However, and this is the important bit, a senator affiliated with a political party can in

fact be non-partisan. In other words, we need to distinguish between partisanship and political affiliation, and many of you have already made that distinction, but, I repeat, common sense dictates that an individual is described as partisan when his or her judgment and actions are tainted by the immediate interests of the political party he or she is affiliated with.

Basically, to be partisan means that an individual is incapable of looking at things in an objective, rational manner, without considering the consequences of his analysis for his political party. That individual is biased. His loyalty to the party takes precedence over his loyalty to the search for the common good.

Clearly, someone can be affiliated with a political party without being partisan. In other words, political affiliation is not synonymous with partisanship.

Honourable senators, I am certain that the Fathers of Confederation wanted Canadian senators to be able to be affiliated with a political party without being partisan. They did not want senators to be elected and, as a result, to act like members of the House of Commons, who of course think first and foremost of the cause and interests of their respective parties.

The Fathers of Confederation felt that when senators were elected, as they were before 1867, their actions didn't set them apart enough from the members of the House of Commons. They wanted senators to act with greater wisdom, independently of the vote-getting strategies of their political parties. That is why they decided to appoint senators for life.

The question now is: What practices encourage senators, who are generally affiliated with a party, and the upper chamber as a whole to be less partisan or non-partisan? Again, observing how senates around the world operate is instructive. At least two clear characteristics stand out from an overview of how a number of senates around the world operate.

As I already said, senators are generally affiliated with a political party. However, in most senates around the world, there are more than three political parties represented. In Australia, for example, there are 76 senators who are divided among eight political parties and a group of four independents. In Belgium, the senators are divided among nine political groups; in the United Kingdom the 820 lords are affiliated with the Labour Party, the Conservatives, the Liberals, or the independents, known as the crossbenchers, not to mention the representatives of the Church, who also form a group in the United Kingdom.

In France, the 348 senators are grouped within six political parties and one group of independents. For each political party, senators can be official members of the political party or can hold similar views or be linked to the party administratively. There are therefore a number of statuses for senators in France.

This characteristic in terms of the number of caucuses seems vitally important to me. Let us come back for a moment to the very origin of bicameralism. The purpose of the Senate is to prevent a political party elected by a simple majority of voters from running the country in accordance with the party's voter base. The Senate must be able to oppose such decisions made unilaterally by the party in power. However, if the party in power also has an absolute majority in the Senate, the party in power and the government, accordingly, could still find ways to impose their views in the upper chamber.

That is why democracy may be compromised when there are just two political parties in the Senate, as is presently the case. At least three caucuses are required to provide sober second thought on legislation and to take all the interests of the public into account. When there are just two caucuses, one necessarily overrides the other, but when there are at least three caucuses, there is a greater chance that not a single one can govern the upper chamber. It is a simple question of mathematics.

Furthermore, esteemed colleagues, is it not archaic that the Senate is made up of just two caucuses — a Liberal caucus and a Conservative caucus — when there are five federal political parties represented in the House of Commons and more than 20 political parties registered with Elections Canada?

Honourable senators, I want to get back to the fundamental question. How can we reduce partisanship in the Senate, as the public is requesting? In my opinion, the Senate will have to change its internal rules and procedures to ensure that independent thought is not penalized. If we want senators to uphold their constitutional duties and to become more independent, regardless of their political affiliation, we need to change our practices to ensure that duties, responsibilities and the associated privileges are governed democratically and collegially. We will then be able to get senators away from short-sighted political games. That is precisely the goal of the motion moved by the Honourable Senator Wallace, who wants to ensure that each individual senator is treated fairly.

Nevertheless, these provisions do not seem sufficient, in my mind. We need to change our rules to allow a group of independent senators, who are not affiliated with a party, to form a recognized group. We need to allow and encourage independent senators to form a group, especially those who will soon be appointed. We need to create a third caucus. It is in the best interests of the Senate as an institution to allow independent senators to form an independent caucus, similar to the United Kingdom's crossbenchers. This will not only help them integrate and get organized, but it will also make debates in the chamber run more smoothly.

This will also help ensure that all senators, regardless of their affiliation, are treated equally. It is another way of doing things.

• (1620)

[English]

Dear colleagues, as you may know, in the U.K. the crossbenchers are organized in a real group, chaired by a convener who is elected by the group and who facilitates the organization of the caucus of independents. They meet weekly and they have a website. As I have said before, since the beginning of 2000, 20 per cent of appointments made by the Queen on the request of the prime minister are crossbenchers, and 80 per cent are politically affiliated lords or church representatives.

Some resources are available to support the organization of the crossbenchers. They have no whip and no party line to follow. They may differ on opinions of legislation, and they do. They participate in the different committees proportionally to their importance. There exists some mobility between members of affiliated caucuses and the crossbenchers, but they will not automatically accept anyone who wants to join.

They often raise issues that are pertinent. According to a study done by Meg Russell and Maria Sciara, the crossbenchers are not philosophically a homogeneous group. They come from different horizons. They potentially hold the balance of power.

[Translation]

**The Hon. the Speaker:** Senator Bellemare, would you like five more minutes?

**Senator Bellemare:** Yes, please. I'm almost finished.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

[English]

**Senator Bellemare:** As the authors state: "The Crossbenchers personify in many ways what the Lords is known for: expertise, independence from party and reasoned debate."

[Translation]

#### MOTION IN AMENDMENT

**Hon. Diane Bellemare:** Dear colleagues, for all these reasons, I propose that we prepare to welcome and integrate our new independent colleagues in the upper chamber and that we be proactive. I propose that we adopt Senator Wallace's motion, get to work quickly and amend the motion as follows:

That the motion be not now adopted, but that it be amended by replacing the paragraph reading

"That the Rules Committee also take into account the anticipated increase in the number of senators who are not members of a recognized party and how this emerging reality should be taken into account, including during the current session;"

by the following:

"That the Rules Committee also take into account the anticipated increase in the number of senators who are not members of a recognized party so that they are able to form a group of independent senators with the resources and rights available to a party recognized under the *Rules of the Senate*;"

In conclusion, dear colleagues, if we adopt Senator Wallace's motion as amended and if we modernize our Rules to ensure that, as individuals, all senators, regardless of whether they are affiliated with a party, have the same status and same privileges, and to ensure that, collectively, a group of senators not affiliated with a recognized party may form a caucus, we will bring about real change that will enable us to be progressive and to play the role that the Canadian public expects us to play. These changes, inspired by the Westminster model, are possible and depend on our exclusive power and therefore on our real desire to bring about change.

Thank you for listening.

[English]

**Hon. John D. Wallace:** Would Senator Bellemare accept a question?

**Senator Bellemare:** Absolutely.

**Senator Wallace:** Thank you for your intervention, senator. I appreciate that. It was very thoughtful and helpful.

You've raised in your amendment that we should specifically consider the fact that we're going to have a number of new senators arriving by the end of February, perhaps five.

**Hon. Joan Fraser (Deputy Leader of the Senate Liberals):** On a point of order, Your Honour. I'm not trying to be obstructionist here. I just had the impression that Senator Bellemare's time had expired. She had gotten five, but I thought she had taken it. She still has a little time going?

**The Hon. the Speaker:** She still has 2 minutes and 42 seconds, to be precise.

Senator Wallace.

**Senator Wallace:** Thank you, Your Honour.

Senator, you raise this issue that the Rules Committee should consider senators that will be arriving. Five new senators will arrive by the end of February, and then there are at least another 17, perhaps later in the spring, and that certainly is important. I

addressed that somewhat, perhaps not as specifically as you've just suggested in the motion itself in making reference to the arrival of these new senators. So it's extremely important. They will be independent, non-partisan senators, according to what we've heard from the Prime Minister.

You have said that the Rules Committee should consider a specific provision that would allow groups of non-affiliated senators to enter into separate caucuses and form a collective. Senator, I'm wondering if you're aware that in the *Senate Administrative Rules*, Chapter 5:04, there is provision that a caucus of non-affiliated senators could indeed form a caucus. Throughout Chapter 5 there are rights that that caucus would be entitled to.

I'm wondering if you're aware of it and have any comment about those provisions as they would relate to the amendment you're suggesting.

**Senator Bellemare:** I'm aware of the SARs, the *Senate Administrative Rules*. As I read them, though, it seems to me that you need the recognition of a leader of a group that is affiliated to a political party. It's not an automatic recognition. But I realize that this rule gives us a way, without changing our Rules. But I think it would be nicer and better if we could have a kind of uniformity and have the rules recognize, per se, that a group of independents can have the same rights and resources as caucuses affiliated to a political party.

(On motion of Senator McCoy, debate adjourned.)

---