



DEBATES OF THE SENATE

1st SESSION



44th PARLIAMENT



VOLUME 153



NUMBER 8

COMMITTEE OF SELECTION

Speech by:
The Honourable Diane Bellemare

Tuesday, December 7, 2021

THE SENATE

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[Translation]

COMMITTEE OF SELECTION

Hon. Diane Bellemare: Esteemed colleagues, this is the second time I am rising to speak about the duration of membership on committees, now known as “portability of committee seats.” This is an issue that I’m passionate about, so please excuse me if that passion sometimes comes through.

I decided that this year, I would speak out again against the proposal that was initially made by the Independent Senators Group and that would invalidate the existing rule stating that a senator is appointed to a committee for the duration of the session.

Today, only 36 senators are here under the former duopoly that had existed in the Senate since 1867 and that ended when the new appointment process was implemented in 2016. Fifty-six of you, the majority, were not around under the previous system. There are a lot of new senators here who are not familiar with the challenges of modernizing the Senate. Some have not had the time to wonder why certain rules exist.

Changing the rules is dangerous when the majority thinks that everything from the old system is automatically bad. Some rules, like the one this report would subvert, have existed here since Confederation and exist elsewhere in the world.

Why did the former partisan Senate accept that a senator who switched affiliations would keep their seat for the duration of the session? That does not seem to make sense in a Senate where the party line was predominant. The reason is simpler than it appears. Despite all the faults of the former system, the partisan caucus leaders were nonetheless pragmatic and knew that it was wrong to prohibit the official participation of a senator in a committee simply because they switched affiliations. This prohibition is in fact a direct attack on a senator’s right to independence and to their privilege.

Senators will recall that we pledge allegiance to Her Majesty Queen Elizabeth II and not to a political party, caucus or group of independent senators. If a senator believes that they can best carry out their constitutional mandate by switching affiliations, that is their right. The group or caucus to which that senator belonged cannot take away their committee seat, because it is the Senate that assigns seats. The group or the caucus only has an instrumental role to play in this operation.

The group or caucus doesn’t own seats in committee; it helps to allocate them to senators.

[Translation]

Under the Rules of the Senate, the real power to decide the composition of committees rests essentially with the Senate. It is the Senate that allocates committee seats to senators, and it is the Senate that can take those seats away from a senator.

The proposal before us is an affront to the power of the Senate and, if we adopt it, we would once again set a dangerous precedent.

The reality is that this proposal seeks to empower groups or caucuses — one might even say the leaders of groups or caucuses — at the expense of a senator’s independence. However, the group or caucus does not have that power, and that is completely contrary to the spirit of the Senate modernization we have undertaken.

[English]

The current rule that ensures portability of committee seats within a session is a rule that enables a senator to fully accomplish their constitutional duty in the Senate and in committees. This rule protects the independence of a senator. If adopted, the sessional proposition before us could lead to a potential breach of privilege.

The fact is that a group cannot keep a committee seat that it does not have. The group helps in the allocation of seats, but at the end of the day, it is the Senate that appoints members in committees, and it is the Senate that can change the composition of committee membership.

[Translation]

Portability of committee seats protects the independence of senators and also helps ensure that tasks are divided equally between all senators, with each senator receiving an equivalent or nearly equivalent workload.

If that rule is circumvented, some senators could see their workload increase because they will have to take on the tasks of senators who may have left their seats, and others will have less work because the groups that may welcome new senators will have to give up their seat to them.

In my experience, to accomplish their role correctly, no senator can really sit long-term on more than two average-sized committees. If a senator decides to change affiliation, they will have to give up their seat on the committee, and it will have to be filled by other members of the group. Some will have to sit on three or four committees, as the case may be, and the group that welcomes a new member will have to give them a spot. Some may end up with just one committee. That is neither fair, effective nor proportional.

The leaders of the Independent Senators Group often say that the principle of proportionality is the most important principle and needs to be protected at all costs, but what does that principle really entail?

[English]

Let us discuss the principle of proportionality for a minute. Indeed, this is an important principle, but it is an operational principle that permits us to treat each senator equally. It is a tool to get the job of distribution of seats done.

Portability of committee seats helps to protect proportionality at all times. If a group loses members, its proportion within the Senate will diminish. It is common sense that its proportion of committee seats will diminish accordingly.

A group cannot maintain the importance of the principle of proportionality at the beginning of a session but then choose to disregard it when members decide to leave their group. The principle should always be applied and in both ways.

[Translation]

The reasons the Independent Senators Group put forward in committee in support of adopting this proposal lack substance. One might actually wonder if the ISG wants to secure an absolute majority in the Senate so it can impose its views? Who knows?

Esteemed colleagues, don't let yourselves be fooled by unsubstantiated rhetoric. And, don't forget that, in a less partisan, more independent Senate, the group is at the senator's service, not the other way around. The group acts as the facilitator for the senators, and when Senators are at the service of the group or caucus they lose their independence.

Moreover, the current Rules protect the caucus or group if a senator's affiliation changes. Rule 12-2(4)(b) states that, during the session, the Committee of Selection can "propose to the Senate . . . changes in the membership of a committee."

This rule allows the Committee of Selection to propose to the Senate that a senator be relieved of their duties. It protects any group or caucus that feels wronged by a senator's change in affiliation. I know from experience that this rule works very well.

I became an independent senator at the beginning of the Forty-second Parliament, when I realized that we had a very real opportunity to modernize the Senate. I wanted to fully participate. When I left the Conservative caucus, I kept my seat on various committees. However, the Conservative caucus wanted to take my seat on the Special Committee on Senate Modernization because it wanted to have its voice and vote heard there instead of mine. You might understand why.

A motion was moved at the Committee of Selection to replace me with former Senator Tkachuk. That proposal was approved by the Senate following debates in which former Senator Pratte strongly defended me.

[English]

This example clearly shows that the existing rules enable a group or caucus to act if it feels significantly impacted by the change in affiliation of one of its members while it respects, at the same time, the independence of an individual senator. It is well balanced, but a group must make their case first in front of the Selection Committee and then in the Senate. The rules respect the fact that the Senate is sovereign.

[Translation]

The proposal by the ISG is clearly a step backwards in the modernization of the Senate. I will also add that it is prejudicial to newly appointed senators.

New senators may feel overwhelmed when arriving in the Senate and don't know exactly what to expect. They receive many invitations to join one group rather than another. There is considerable pressure on new senators to join a dominant group. In fact, it is a matter of numbers. A new senator will most likely receive more invitations from the largest group.

If all new senators become members of the largest group, the Senate will quickly return to a system where an absolute majority dominates. It is the majority rule, and I do not believe in it. The modernization of the Senate seeks to prevent this very situation. The rule that has existed since Confederation will not create chaos.

[English]

Senator Woo said in committee:

The senator got the seat at the expense of a colleague. Taking the seat away from the group would be an affront to procedural fairness and an insult to colleagues who played by the group's rules.

This is false. It is consequential to the method chosen by the ISG to allocate seats.

Let me explain. Having been a senator since September 2012, I have had the chance to experience the process of committee membership selection many times and with different groups.

As explained last Thursday by Senator Woo in committee, the method of selection in the ISG works as follows: First, the group accepts a set of criteria for allocation of committee seats. So far so good. Second, each senator sends their preferences to the leadership. That's common. Then the leadership allocates committee membership to each senator and negotiates individually when there is a problem. At first glance this sounds great and it sounds normal.

But there is a problem with this method. It lacks transparency. Twice I have experienced a much more transparent process — once with the first generation of the ISG, when late senator Elaine McCoy was the leader, and recently with the PSG. In both cases, preferences of individual senators were known to everyone at one point or another in the process.

The truth is that senators don't have the same preferences. They don't all want to be on the same committees. In most cases, senators can get their first and second choice. When demand for committee seats is higher than the supply of seats, transparency, common sense and mutual respect help to resolve exceptional cases that may happen 10% of the time, at most.

If I may suggest, allocating seats with more transparency solves many problems. The argument that a senator

is getting a seat at the expense of another colleague disappears; it vanishes.

Senators, I invite you to vote against this second report, which circumvents a wise, equitable, pragmatic and long-standing rule. Rule 12-2(3), I reiterate, is fundamental to preserving a senator's independence from a caucus or group. Do not let some leaders — or this report — do indirectly what the Rules do not permit us to do directly. I invite you to vote with your conscience. Thank you. *Meegwetch.*
