

SENATE



SÉNAT

CANADA

Tuesday, May 2, 2017

Le mardi 2 mai 2017

The Standing Committee on Ethics and Conflict of Interest for Senators has the honour to present its

Le Comité permanent sur l'éthique et les conflits d'intérêts des sénateurs a l'honneur de présenter son

2nd REPORT

2^e RAPPORT

Your committee, which has taken into consideration the Senate Ethics Officer's *Inquiry Report under the Ethics and Conflict of Interest Code for Senators concerning Senator Don Meredith*, dated March 9, 2017, in accordance with section 49 of the *Ethics and Conflict of Interest Code for Senators*, herewith presents its report.

Votre comité, qui a examiné le *Rapport d'enquête en vertu du Code régissant l'éthique et les conflits d'intérêts des sénateurs concernant le sénateur Don Meredith*, daté du 9 mars 2017, de la conseillère sénatoriale en éthique conformément à l'article 49 du *Code régissant l'éthique et les conflits d'intérêts des sénateurs*, présente ici son rapport.

Respectfully submitted,

Respectueusement soumis,

La présidente

Original signed by/original signé par

A. RAYNELL ANDREYCHUK
Chair

Introduction

On March 9, 2017, the Senate Ethics Officer provided to your committee the [*Inquiry Report under the Ethics and Conflict of Interest Code for Senators concerning Senator Don Meredith*](#) (“Inquiry Report”) in accordance with subsection 48(17) of the [*Ethics and Conflict of Interest Code for Senators*](#) (“Code”). On the same day, as required by subsection 48(18) of the Code, the chair of the committee caused the Inquiry Report to be deposited with the Clerk of the Senate at which time it became public in accordance with subsection 48(19) of the Code. The Inquiry Report was deposited with the Clerk and not tabled directly in the Senate as it was received late in the afternoon after Tabling of Documents.

On June 18, 2015, Senator Leo Housakos, then Speaker of the Senate, made a request for an inquiry to the Senate Ethics Officer respecting the conduct of Senator Don Meredith. In accordance with the process established by the Code, the Senate Ethics Officer conducted a preliminary review of the matter, and upon finding that an inquiry was warranted, the Senate Ethics Officer conducted an inquiry. Her Inquiry Report, as indicated above, was provided to the committee on March 9, 2017.

In her Inquiry Report, the Senate Ethics Officer concluded that, in 2014 and 2015, Senator Meredith had carried on an improper sexual relationship with a teenager (referred as Ms. M in the Inquiry Report), and had thereby breached section 7.1 of the Code by failing to uphold the highest standards of dignity inherent to the position of senator and acting in a way that reflected adversely on the position of senator and the institution of the Senate.

The role of this committee, in accordance with section 49 of the Code, is to recommend the appropriate remedial measures or sanctions to be imposed on Senator Meredith based on the findings of the Senate Ethics Officer.

The committee membership is composed of five senators, three of whom constitute quorum (subsection 35(2) of the Code). The current members of the committee are: Senator A. Raynell Andreychuk, chair, Senator Serge Joyal, deputy chair, Senator Dennis Patterson, Senator Murray Sinclair and Senator Howard Wetston. The committee would like to note that Senator Patterson, recused himself from, and did not participate in, any of the proceedings in relation to the Inquiry Report. Senator Patterson sent a letter to the committee stating that his participation in the proceedings “could give rise to the appearance of conflict or a question of partiality on [his] part”. His recusal was voluntary and not one contemplated by section 12 or subsection 36(5) of the Code. The committee took note of Senator Patterson’s recusal and proceeded with the consideration of the Inquiry Report with four members.

The Code – Historical Background

Before the Code was adopted, the conduct of senators was governed by various rules found in legislation and in the [*Rules of the Senate*](#). Senators were also expected to act in accordance with the “trust and confidence” placed in them when summoned to the Senate and the dignity inherent to the service in public office.

The first *Conflict of Interest Code for Senators*, as it was then entitled, was adopted on May 18, 2005, when the Senate concurred in the [Third Report](#) of the Standing Committee on Rules, Procedures and the Rights of Parliament. The Code in 2005 established “clear standards and a transparent system” to ensure accountability of all senators.

The Code constitutes an exercise of the Senate’s parliamentary privilege to govern its internal affairs and to discipline its members. Both privileges are inherent to the Senate as a legislative and deliberative body and have been explicitly conferred on the Senate by virtue of section 18 of the [Constitution Act, 1867](#) and section 4 of the [Parliament of Canada Act](#).

The Code was adopted following the enactment of *An Act to Amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer)*, S.C. 2004, c. 7. That Act established an independent officer for each House of Parliament with the duties and functions assigned by his or her respective House to govern the conduct of its members. While the Act contemplated the adoption of a code of conduct by each House of Parliament, it did not constitute the enabling authority for such a code – an authority which rests on parliamentary privilege. The Act safeguarded all “powers, privileges, rights and immunities of the Senate or its members” (see [Parliament of Canada Act](#), subsection 20.5(5)).

The introduction of a new Senate ethics regime in 2004 and 2005 was preceded by many years of studies. In this respect, the [Third Report](#) of the Standing Committee on Rules, Procedures and the Rights of Parliament, in referring to the Code, stated that “[r]arely has a document been as thoroughly examined and discussed as this Code.”

Since 2005, the Code has been amended on four occasions: 2008, 2012 and twice in 2014 ([Journals of the Senate](#), May 29, 2008, May 1, 2012, April 1 and June 16, 2014). These amendments were aimed each time at improving the provisions of the Code and at reasserting the commitment of the Senate and of each individual senator to the highest standards of conduct. The 2008 amendments strengthened the independence of the Senate Ethics Officer; the 2012 amendments made changes particularly aimed at increasing transparency; the April 2014 amendments established a new enforcement process; and the June 2014 amendments established rules of general conduct.

The Process

This is the first time that your committee has been called upon to consider an inquiry report from the Senate Ethics Officer under the enforcement provisions adopted by the Senate on April 1, 2014, when it concurred in your committee’s [Third Report](#). In that report, the committee recommended amendments to the Code aimed at establishing “a clear, fair and balanced inquiry process” and increasing “the independence of the Senate Ethics Officer.”

The Code establishes a four-step enforcement process when there are reasonable grounds to believe that a senator has not complied with his or her obligations under the Code:

1. The Senate Ethics Officer’s preliminary review (section 47);
2. The Senate Ethics Officer’s inquiry (section 48);

3. The committee study and report (section 49); and
4. The Senate decision (sections 50 and 51).

A preliminary review is either self-initiated by the Senate Ethics Officer or conducted at the request of a senator when there are reasonable grounds to believe that a senator has not complied with his or her obligations under the Code. The purpose of the preliminary review is to decide if an inquiry is warranted to look into the matter more fully in order to determine whether a senator has not complied with his or her Code's obligations. See section 47 of the Code regarding the preliminary review.

The second step of the process is the Senate Ethics Officer's inquiry. The purpose of the inquiry is to determine whether a senator has breached his or her obligations under the Code. At the end of the inquiry, the Senate Ethics Officer must report her findings, reasons and recommendations, if any, to this committee. An inquiry report from the Senate Ethics Officer is also tabled in the Senate for information purposes (section 50 of the Code). See section 48 of the Code regarding the inquiry process.

The third step of the process is your committee's consideration of the Senate Ethics Officer's inquiry report. The role of your committee is to recommend to the Senate the appropriate remedial measures or sanctions to be imposed on a senator, based on the findings of the Senate Ethics Officer that the Senator has breached his or her obligations under the Code. As part of its study, the committee is to provide the senator who is the subject of the inquiry report an opportunity to make representations on any remedial measures the senator has undertaken and on measures or sanctions that should be recommended to the Senate. See section 49 of the Code regarding the committee study.

The fourth and final step of the process consists of the Senate's consideration and disposal of your committee's report and recommendations. The Senate itself exercises final and exclusive authority concerning a breach of the Code and the appropriate remedial measures or sanctions. This constitutes an exercise of the Senate's privilege to discipline its members. As with any other committee report, a report containing your committee's recommended remedial measures and sanctions against a senator may be debated and amended before being disposed of. See section 50 and 51 of the Code and rule 12-30 regarding the process in the Senate.

The Senate Ethics Officer's preliminary review and inquiry must be conducted confidentially and as promptly as circumstances permit (subsections 47(5) and 48(6)). The committee too must act promptly in its consideration of an inquiry report from the Senate Ethics Officer (subsection 49(1)). The [*Rules of the Senate*](#) also ensure a timely disposal of the report of your committee in the Senate (rule 12-30).

As stated above, your committee's [*Third Report*](#) of 2014 recommended "a clear, fair and balanced inquiry process." Throughout the enforcement process, a senator whose conduct is under review is to be properly notified at the various steps of the process and on the alleged non-compliance with the Code (subsections 36(4), 47(4) and 48(5) of the Code). The senator must be afforded an opportunity to be heard and make representations at all stages of the

process (subsections 47(7), 48(9) and 49(2) of the Code). In the Senate, the consideration of a report from your committee is also subject to special rules to ensure a timely disposal, but not before the senator who is the subject of the report has had an opportunity to speak to the report (rule 12-30). The senator is also afforded the right of final reply (rule 6-12(1)(d) and subsection 51(2) of the Code).

As part of the amendments made to the Code when your committee's *Third Report* was adopted in April 2014, each senator is required to file a statement of compliance annually confirming that he or she has recently read the Code and that he or she complies with it (subsection 45(1)). It is also expressly stated that "Senators shall respect in all particulars the enforcement process established by the Code" (subsection 44(3)), which includes deference to the Senate Ethics Officer while conducting a preliminary review or an inquiry and to the committee during its study of an inquiry report from the Senate Ethics Officer.

Rules of General Conduct

The Senate Ethics Officer found that Senator Don Meredith's conduct was contrary to section 7.1 of the Code.

Section 7.1 of the Code states the following:

7.1 (1) A Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator.

(2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

Section 7.1 was included to the *Conflict of Interest Code for Senators* on June 16, 2014, when the Senate concurred in your Committee's *Fifth Report*. The purpose of this amendment, as the committee explained in the *Fifth Report*, was to "reassert the commitment of the Senate and each Senator to the highest standards of conduct." The Code was also renamed the *Ethics and Conflict of Interest Code for Senators* at the same time.

These new provisions built on the Senate's "power to impose rules and sanctions pertaining to transgressions committed outside [its] chamber[...]" (*Harvey v. New Brunswick (Attorney General)*, [1996] 2 S.C.R. 876, p. 916). Your committee has previously explained that:

These rules of general conduct are applicable to all conduct of a Senator, whether directly related to parliamentary duties and functions or not, which would be contrary to the highest standards of dignity inherent to the position of Senator and/or would reflect adversely on the position of Senator or the institution of the Senate.

See Committee, [DIRECTIVE 2015-02](#), *Rules of General Conduct (section 7.1)*, July 27, 2015.

The Committee Study

As stated earlier, the role of your committee in this process, after receiving the Inquiry Report on March 9, 2017, is to recommend to the Senate the appropriate remedial measures or

sanctions to be imposed on Senator Meredith based on the finding of the Senate Ethics Officer that he breached his obligations under the Code (section 49 of the Code).

Your committee has carefully considered the process followed by the Senate Ethics Officer respecting the preliminary review and inquiry of Senator Meredith's conduct. The committee is satisfied that at all stages of the process, beginning on June 18, 2015, with the request for an inquiry from Senator Housakos, then Speaker of the Senate, followed by the Senate Ethics Officer's preliminary review (June 2015 to May 2016) and inquiry (June 2016 to March 2017) and culminating in her Inquiry Report to your committee on March 9, 2017, the Senate Ethics Officer complied with all procedural and substantive requirements provided in sections 47 and 48 of the Code.

The Senate Ethics Officer's review and inquiry of Senator Meredith's conduct was initiated on June 18, 2015, and completed on March 9, 2017. A period of almost two years may appear long. However, the Inquiry Report referred to a number of complicating factors affecting the process, including the suspension of the process for almost 4 months while the matter was under police investigation, along with other delays related, among other reasons, to Senator Meredith's availabilities. The committee is of the view that the Senate Ethics Officer conducted her preliminary review and inquiry of the matter as promptly as circumstances permitted, in accordance with subsections 47(5) and 48(6) of the Code.

The Code also requires your committee to take into consideration an inquiry report from the Senate Ethics Officer as promptly as circumstances permit (subsection 49(1)). Although the Senate had just adjourned for two weeks when the Inquiry Report was deposited with the Clerk of the Senate on March 9, 2017, your committee nonetheless promptly began its consideration of the Inquiry Report and met formally for the first time on March 22, 2017, during the period of adjournment of the Senate. As part of its consideration of the Senate Ethics Officer's Inquiry Report, the committee must afford the senator who is the subject of the report the opportunity to be heard by the committee (subsection 49(2)). Accordingly, your committee heard from Senator Meredith on April 4, 2017, who was accompanied by counsel, and also permitted the presentation of written submissions.

Subsection 36(2) of the Code requires that the meetings of the committee be held in camera unless the senator who is the subject of the inquiry report makes a request that the meeting be public, in which case the committee may hold its meetings in public. Senator Meredith made no such request and accordingly, the meetings of the committee were held in camera.

In addition to the meetings of March 22 and April 4, 2017, the committee also met on March 29, April 13 and 27, and May 2, 2017. The committee notes that the meetings of March 22 and April 27, 2017, were held while the Senate was adjourned.

a. Remedial Measures and Sanctions

The Senate has granted your committee a broad mandate with respect to the remedial measures and sanctions it can recommend. Subsection 49(4) of the Code lists possible remedial measures and sanctions your committee may recommend to the Senate. This list is non-exhaustive and the committee may recommend all measures and sanctions the Senate itself can impose on its members under its privilege to discipline its members.

Your committee may also recommend as remedial measures and sanctions matters that would normally fall within the mandate of certain other standing committees. Examples include “the reduction or removal of access to Senate resources” (paragraph 49(4)(c) of the Code) that would, in other circumstances, be within the exclusive mandate of the Standing Committee on Budget, Administration and Internal Economy (rule 12-7(1)), and “the removal of assignments ... conferred by the Senate” (paragraph 49(4)(d) of the Code), such as committee membership, which is within the mandate of the Committee of Selection (rule 12-2).

Your committee considered all possible remedial measures and sanctions that would have appropriately addressed Senator Meredith’s breaches of the Code. After review and consideration, given the nature, extent and gravity of the findings made by the Senate Ethics Officer, the committee focused its consideration on two possible sanctions: suspension and expulsion.

Both the Code and the [Rules of the Senate](#) contemplate circumstances where the Senate may impose sanctions on its members. As standing orders of the Senate they are not, however, the source of the Senate’s disciplinary authority over its members, but merely a recognition of the existence of this power (see Speaker’s Ruling, *Journals of the Senate*, [October 24, 2013](#)). The Senate’s disciplinary authority over its members, as any other parliamentary privilege, stems from section 18 of the [Constitution Act, 1867](#) and section 4 of the *Parliament of Canada Act*.

Section 18 of the [Constitution Act, 1867](#) authorizes Parliament to define, by legislation, the privileges of both Houses of Parliament and their members provided that they do not exceed those of the U.K. House of Commons in 1867 or at any other time when such legislation is enacted. The Canadian Parliament, through section 4 of the *Parliament of Canada Act*, has claimed all the parliamentary privileges held, enjoyed and exercised by the U.K. House of Commons in 1867 or as enacted from time to time. In 1867, the power of the U.K. House of Commons to suspend and expel one of its members had long been authoritatively established. *Erskine May Parliamentary Practice*, 24th ed., 2011, provides examples of suspensions and expulsions of members of the U.K. House of Commons dating as far back as the 17th century and early 18th century (pp. 198-199), and this privilege has been exercised continuously since then.

In addition, the right to suspend or expel one of its members is an inherent privilege to any legislative body necessary to protect its dignity and efficiency. Bourinot’s *Parliamentary Procedure and Practice in the Dominion of Canada*, 4th ed., 1916, p. 64 states:

The right of a legislative body to suspend or expel a member for what is sufficient cause in its own judgment is undoubted. Such a power is absolutely necessary to the conservation of the dignity and usefulness of a body.

The power of the Senate to suspend one of its members is authoritatively established and there are precedents where the Senate has suspended its members (*Journals of the Senate*, [February 19, 1998](#), [November 5, 2013](#)).

However, questions have arisen, as to whether the Senate has the right to expel one of its members. Section 31 of the [Constitution Act, 1867](#) provides circumstances where the Senate can disqualify a senator and declare his or her seat vacant. The question is whether these grounds are exhaustive and constitute the only basis upon which the seat of a member of the Senate could be declared vacant. Your committee requested a legal opinion of the Law Clerk and Parliamentary Counsel to the Senate respecting this matter. The legal opinion, which has been added as an Appendix to this report, states among other things, that:

- The Senate’s parliamentary privileges include all those that are necessarily inherent to the discharge of its deliberative and legislative functions with dignity and efficiency as well as all the privileges held, enjoyed and exercised by the U.K. House of Commons in 1867 and as enacted from time to time (section 18 of the [Constitution Act, 1867](#) and section 4 of the *Parliament of Canada Act*);
- The U.K. House of Commons, in 1867, held, enjoyed and exercised the power to discipline its members and had, under the authority of this privilege, expelled members for centuries;
- The exercise of a parliamentary privilege is of the exclusive domain of the Senate; courts of law cannot review the exercise of a parliamentary privilege once its existence and scope have been authoritatively established;
- Section 31 of the [Constitution Act, 1867](#) lists situations where the Senate may declare a seat vacant by reason of disqualification; this list is not exhaustive;
- The Senate’s power to expel a member as an exercise of its disciplinary authority is separate and distinct from its authority to disqualify a senator under section 31 of the [Constitution Act, 1867](#); neither this section nor any other provisions of the Constitution limit the disciplinary authority of the Senate over its members.

After review and consideration, your committee accepts the opinion of the Law Clerk and Parliamentary Counsel.

The power to expel one of its members, while an exceptional and severe sanction that should only be exercised in the rarest of cases of serious misconduct, is absolutely necessary for the Senate to perform its parliamentary functions with efficiency and dignity within its constitutional authority. Should the power of the Senate to declare a seat vacant be limited only to the circumstances contemplated in section 31 of the [Constitution Act, 1867](#), the Senate as an institution could easily be discredited by the presence within the chamber of a senator engaged in egregious conduct not listed in section 31.

b. Senate Ethics Officer’s Findings

The Senate Ethics Officer’s Inquiry Report makes findings in relation to two time periods: before June 16, 2014, and after June 16, 2014. This date constitutes the coming into force of section 7.1 of the Code. The Senate Ethics Officer considered that although Senator Meredith’s conduct prior to that date could not constitute a breach of section 7.1, it is

nonetheless relevant as to context and demonstrates the existence of an ongoing relationship at the time this section was adopted by the Senate (Inquiry Report, pp. 7 and 27).

The committee concurs in the Senate Ethics Officer's analysis to the effect that the conduct prior June 16, 2014 cannot in itself constitute a breach of section 7.1 of the Code. That said, it is important to note that the power of the Senate to discipline one of its members did not begin in June 2014 when section 7.1 was included to the Code. The Senate has had the power to discipline a senator for conduct that is unbecoming since its constitution in 1867. The June 2014 amendment added these rules to the Code, and included them under the authority of the Senate Ethics Officer.

In respect of Senator Meredith's conduct from February 2013 to June 16, 2014, the Senate Ethics Officer found that he initiated and encouraged a relationship with a teenager, while he knew that she was only 16 years of age at the time. That relationship included sexual interactions on a number of occasions between the teenager and Senator Meredith – some contact of this nature even took place within the parliamentary precinct – and Senator Meredith drew upon the resources of his office to foster that relationship. See Inquiry Report, pp. 27-28.

For the period from June 16, 2014, to May 2015, the Senate Ethics Officer found that Senator Meredith carried on a sexual relationship with the teenager that he had himself initiated and/or encouraged. The Senate Ethics Officer also stated that Senator Meredith drew upon the weight, prestige and notability of the office of senator, and his relative position of power in his official capacities and as a much older adult to "lure or attract" the teenage girl who was in a vulnerable position by virtue of her age. The Senate Ethics Officer further found that Senator Meredith engaged in a pattern of inappropriate behavior that advanced an improper relationship. The ongoing sexual relationship and activities between the teenager and Senator Meredith also included two sexual encounters, one of which included sexual intercourse before the teenager turned 18 years of age, in December 2014. See Inquiry Report, pp. 28-30.

The Senate Ethics Officer found that Senator Meredith's conduct was substantially intermingled with his role as a senator. Senator Meredith brought the power and influence of his office into the relationship, even using Senate resources to foster that relationship. While engaged in this inappropriate sexual relationship and behavior with the teenager, Senator Meredith drew on the resources, weight and authority of his office to promote, assist and advance the interests of the teenager and to attempt to advance those of her family members.

As a result, the Senate Ethics Officer found, in her Inquiry Report, that the conduct of Senator Meredith breached both subsections 7.1(1) and 7.1(2) of the Code because he failed to uphold the highest standards of dignity inherent in the position of senator and acted in a way that could reflect adversely on the position of senator and the institution of the Senate.

c. Senator Meredith's Hearing

As indicated earlier, the committee must afford the senator who is the subject of an inquiry report the opportunity to be heard by the committee (subsection 49(2) of the Code). Accordingly, Senator Meredith appeared before your committee on April 4, 2017. He was

accompanied and assisted by his counsel. Senator Meredith also submitted character reference letters and other letters of support. Senator Meredith's counsel also filed a submission on the power of the Senate to suspend beyond the end of a parliamentary session.

The committee, having due regard to the fact that Senator Meredith appeared at an in camera meeting of the committee, will not elaborate on the confidential proceedings. The committee gave due consideration to his submissions.

d. Appropriate Sanction

As indicated above, the role of your committee is to recommend the appropriate remedial measures or sanctions based on the findings of the Senate Ethics Officer (subsection 49(4) of the Code).

Your committee has considered all remedial measures and sanctions that could address Senator Meredith's breach of the Code. An appropriate remedial measure or sanction, in this and any circumstance, must take into account:

- the seriousness of the breach and its impact on the Senator's ability to continue to perform his or her parliamentary duties and functions;
- the effect of the breach on other senators and on the respect, dignity and integrity of the Senate as an institution;
- public confidence and trust in the Senate.

The committee did not limit its consideration of the appropriate remedial measures and sanctions to those enumerated in subsection 49(4) of the Code, but sought and considered other measures that could appropriately address Senator Meredith's conduct. The committee, however, eventually focused its consideration on two possible sanctions, suspension and expulsion, having determined that any lesser sanction would be inappropriate under the circumstances.

Senator Meredith's counsel proposed that he be suspended for one to two years without pay, a position that is potentially at odds with parliamentary law and customs. The prorogation or dissolution of Parliament would end the suspension regardless of any time remaining on the suspension.

Senator Meredith's counsel filed a submission arguing that the Senate could order a suspension which would survive the end of the parliamentary session. Counsel relied on rule 15-2(4) and the intersessional authority of your committee to assert that the Senate does have the power to order a suspension that would continue despite the end of the parliamentary session. Rule 15-2(4) provides, among other things, that "[t]o avoid disqualification, a Senator who is on leave of absence or under suspension for more than a full session may attend the Senate once every session ..."

The committee is of the opinion that there are fundamental distinctions between the examples provided by Senator Meredith's counsel and a special order suspending a Senator. Rule 15-

2(4) and the committee's intersessional authority are based on standing orders of the Senate (the [Rules of the Senate](#) and the Code) which, by necessity, apply intersessionally and are carried over from session to session. The *Senate Administrative Rules* constitute another example of such standing orders. The suspension for more than one session contemplated in rule 15-2(4) is based on the underlying status of a senator who has been found guilty of, and sentenced for, an indictable offense. The [Rules of the Senate](#) provide that, in such a circumstance, a senator is to be suspended with such suspension continuing until the conviction is overturned, the senator is discharged or his or her seat is declared vacant (rule 15-5(2)). Such a suspension does not result from a special order of the Senate.

Your committee does not agree that, under the current legal and procedural framework, it could recommend that a senator be suspended for a period greater than the remainder of a parliamentary session. In the present case, your committee did not feel constrained by these limitations as it determined that a suspension in any form is not an appropriate sanction to address Senator Meredith's breach of the Code.

The service of a senator in Parliament is "a public trust" (paragraph 2(2)(a) of the Code). Senator Meredith's Royal Commission appointing him to the Senate, as that of all senators, states "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" (*Journals of the Senate*, [February 1, 2011](#)).

The Senate, including all of its members, has important deliberative and legislative responsibilities. The Senate is an integral part of the Canadian Parliament which has the responsibility to make "Laws for the Peace, Order, and good Government of Canada" ([Constitution Act, 1867](#), section 17 and 91 *in limine*). Every sitting, senators' debate and vote on matters that affect all Canadians or broad classes of the population.

As a complementary legislative body of sober second thought, the Senate is particularly concerned by the impact of proposed legislation on minorities, and vulnerable and under-represented persons, which especially includes children. The "confidence and trust in the integrity of Senators and the Senate" (paragraph 1(a) of the Code), as well as the credibility of the institution and that of all senators, must be maintained for the Senate to perform its parliamentary functions with dignity and efficiency.

Senator Meredith failed to uphold the highest standards of dignity inherent in the position of senator and acted in a way that reflected adversely on the position of senator and on the institution of the Senate. The only appropriate sanctions under the circumstances are those that would restore the dignity, reputation and integrity of the position of senator and the institution of the Senate. Senator Meredith's misconduct "affected all Senators and the ability of the Senate to carry out its functions" (subsection 44(1) of the Code).

Your committee has considered carefully the representations made by Senator Meredith before it on April 4, 2017. The committee is of the opinion that Senator Meredith's remorse and acceptance of responsibility are at odds with his conduct since the inappropriate relationship became public. The Inquiry Report of the Senate Ethics Officer also demonstrated that at no time did he take responsibility for his inappropriate behavior and did

not evidence that he realized the impact on Ms. M, senators and the institution of the Senate. Senator Meredith, to the contrary, adopted an indifferent attitude towards the process undertaken by the Senate Ethics Officer and towards his responsibility as a senator and to the Senate as an institution. Senator Meredith only acknowledged his moral failings when a finding that a breach of the rules of general conduct had been found by the Senate Ethics Officer.

Your committee is troubled by the fact that, on numerous occasions, the Senate Ethics Officer came to the conclusion that Senator Meredith was not credible in his testimony. In her Inquiry Report, the Senate Ethics Officer made findings that were incompatible with the evidence provided by Senator Meredith. These findings suggest behavior that is inconsistent with a repentant senator who accepts responsibility for his actions and acknowledges the harm he has inflicted on the institution and on others.

The findings of the Senate Ethics Officer in relation to Senator Meredith's conduct constitutes, in the eyes of the committee, one of the most egregious breaches in the context of the role of senators, the status and role of the Senate, and the public stature claimed by Senator Meredith.

The Senate Ethics Officer found that on several occasions Senator Meredith engaged in sexual interactions with a teenage girl. That included masturbation over Skype, sexual touching, sexual innuendo and consensual sexual intercourse before and after the person had reached the age of 18. All of this occurred at a time when Senator Meredith was much older than Ms. M and was publicly portraying himself inside and outside the Senate as an advocate for youth.

Senator Meredith's conduct was ongoing as the Senate was considering your committee's [*Fifth Report*](#), which led to amendments to the Code to include the rules of general conduct he has breached. Prior amendments to the Code also required all senators to file with the Senate Ethics Officer an annual statement of compliance attesting that they have read the Code and that they are complying with it. Senator Meredith should have realized that his conduct was contrary to the rules of general conduct. Nevertheless, Senator Meredith's misconduct continued after June 2014 and even intensified thereafter.

Senators must accept the fact that they are recipients of the public's trust. Because senators are appointed, and not elected, the public imposes on the Senate and senators a considerable degree of responsibility and faith that senators will do the right thing. The public needs to be able to believe that senators will protect the interests not only of the many regions of the country, but that all senators will also protect the weak, the voiceless and the vulnerable from the personal and parochial interests of the powerful. While the public would undoubtedly be willing to accept that senators are only human, they would still expect senators to be the best persons that senators could be. It is a remarkably challenging undertaking that senators must be willing to accept. To fail to uphold this undertaking is to damage that faith and trust.

This is not only true of the behaviour in the Senate Chamber, but it is also true of the behaviour in public and even, in private. All persons are entitled to a degree of freedom from scrutiny of their private behavior. However, when such behaviour and the role of senator

become intertwined, the protection of a senator's private life from scrutiny is lessened. This is the case here.

Your committee has considered the nature and circumstances of the breach of the Code in its assessment of the appropriate sanctions. Senator Meredith was engaged in an ongoing inappropriate sexual relationship with a teenager over a continuous period of time. Such unacceptable behavior is at odds with contemporary norms of conduct. Senator Meredith's failings did not involve an isolated incident. The inappropriate relationship, initiated and encouraged by Senator Meredith, lasted over a continuous period of time.

The committee does not consider that a suspension without pay would be appropriate under the circumstances. The committee believes that a suspension could be an appropriate sanction only when the absence of a senator for a period of time would restore the integrity and dignity of the institution, and if the senator would still be able, following the suspension, to serve as a member of the Senate. However, this is not such a case.

In Senator Meredith's case, he did not take responsibility for his unacceptable conduct as a senator during the two year relationship, nor did he do so during the process conducted by the Senate Ethics Officer. Senator Meredith maintained before the Senate Ethics Officer that this matter was personal. Only when the Inquiry Report was released did he characterize his conduct as "moral failings." He did not however acknowledge that his actions were a failure of his duties as a senator or that he failed to uphold the dignity and public trust bestowed on him. The committee could have considered suspension as appropriate had he taken immediate action to repair the prejudice his breach of the Code has caused, but after due consideration, the committee rejected this option as Senator Meredith had taken no steps towards restoration. A suspension would reinstate only temporarily the Senate's dignity and integrity, which would be again compromised when Senator Meredith would resume his seat as a senator.

Sanctions other than expulsion were also considered by the committee. However, the committee could only consider remedies or sanctions that would be proportionate to the breach of the rules of conduct by Senator Meredith and that would repair the prejudice caused to the institution of the Senate and to all senators.

Senator Meredith's conduct has compromised his ability to continue to serve as a member of the Senate. Senator Meredith has shown a serious lapse in judgement which undermined "the especial trust and confidence" placed on him when he was summoned to the Senate. He has abused his privileged position of authority and trust by engaging in behaviour that is incompatible with his office. He has brought disrepute to himself and to the institution. Your committee is of the opinion that Senator Meredith's misconduct has demonstrated that he is unfit to serve as a senator. His presence in the chamber would in itself discredit the institution. No lesser sanction than expulsion would repair the harm he has done to the Senate.

Bourinot's *Parliamentary Procedure and Practice in the Dominion of Canada*, 4th ed., 1916, p. 65, states that "[e]xpulsion from parliament ... has been reserved for flagrant cases of misconduct, such as would render the person disciplined unfit to sit in parliament or whose continued membership would be a discredit to the house." The committee believes that this is such a case.

The committee, having considered this matter, can make only one recommendation: that Senator Meredith be expelled from the Senate.

RECOMMENDATIONS

Therefore, your committee recommends:

That Senator Don Meredith be expelled from the Senate and that his seat be declared vacant;

That, notwithstanding the *Senate Administrative Rules*, ch. 4:04, sections 3 to 9, the Standing Committee on Internal Economy, Budgets and Administration be authorized to determine the resources, if any, to be made available to Senator Meredith as a departing senator.