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**BILL TO AMEND—MESSAGE FROM COMMONS—
MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS
AND FOR NON-INSISTENCE UPON CERTAIN SENATE
AMENDMENTS ADOPTED**

Speech by:

The Honourable Judith Seidman

Friday, June 17, 2016

THE SENATE

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Hon. Judith Seidman: Honourable senators, I rise once more in this chamber to speak to the issues around Bill C-14, An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying — MAID), and specifically of the importance of federal legislation.

This is the third time in the last year that I have been challenged with the soul-searching that such a piece of legislation demands. The first time was our own Senate bill, Bill S-225, sponsored by two of our colleagues, Senators Campbell and Nancy Ruth. I spoke to that bill at second reading, just one year ago. Might I quote directly from the introduction to the speech I gave on June 2, 2015:

Public opinion has forced countries around the globe to engage in a public discourse on the merits of legalizing physician-assisted death. Senators Ruth and Campbell have brought forward a bill that is both relevant timely. It will facilitate discussions languishing in the background, and overdue. However, there is no question that we shall immediately find ourselves in the realm of the abstract, with issues difficult to discuss, and rarely resolved in debate; issues that often raise more questions than inform answers. For example: How do we balance the seeming conflict between individual and collective rights, between freedom of choice and those societal factors that constrain choice? Does the Hippocratic Oath prevent physician-assisted death, and if so, under what circumstances? How do we protect vulnerable individuals from too broad interpretations of the legislation and ensure there are clearly stipulated terms of reference? This public discourse will challenge us to confront big questions of philosophy, ethics and religion, moral values of our time, and our prevailing societal paradigms.

Honourable senators, we have done that very confronting, right here in our chamber in this debate these past two weeks. I will return to this, our debate, in a moment.

My second challenge with legislation on MAID clearly came with the privilege I had to sit on the special joint parliamentary committee this past January 2016 with 15 other colleagues from the Senate and the House of Commons. We were asked, as you know, to provide advice to the government on the legislation put forward, Bill C-14. Over an intense, short period of time, we listened to 61 witnesses, received over 100 submissions and had the benefit of major reports from the federally mandated External Panel, the Provincial-Territorial Expert Advisory Group and the Canadian Medical Association.

My decision then, to sign on to the majority report of the special joint parliamentary committee, was one I thought long and hard about. This report, titled *Medical Assistance in Dying: A Patient-Centred Approach* I believe will stand the test of time, and experience, going forward with MAID in Canada.

Now, upon the third personal challenge exploring legislation on MAID — of course the same C-14 I struggled with earlier this year on the special joint parliamentary committee — I have become aware that my thinking has continued to evolve over these months. Especially here, in this chamber, with these last two weeks of listening and learning from the remarkable debate — your debate, colleagues — it has become ever-clearer to me that we must have federal legislation. Why? I find myself emphasizing now, with even more certainty, what I presented in my second reading speech during this chamber's debate on C-14.

First, to secure the very basic framework to protect Canadians, to provide them coherent access and standards they can trust.

Second, to ensure the critically important oversight through a national data collection system with a built-in review that will provide evidence-based data to update this piece of legislation.

And third, to provide physicians and other allied health professionals, especially nurse practitioners and pharmacists, both freedom of conscience and the reassurance of protection in the criminal code so that they are free of prosecution if they help provide MAID.

Colleagues, I thank you for all you have shared with us here: the stories of Canadians but also the important debate that airs the questions, the knowledge and the experiences most relevant to MAID. It appears to me that the Senate has lived up to the responsibility mandated by our Constitution. To quote our founding father, Sir John A. Macdonald:

There would be no use of an Upper House, if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House. It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, but it will never set itself in opposition against the deliberate and understood wishes of the people.

The Supreme Court, most recently in their 2014 ruling on the issue of Senate Reform, was very clear on our mandate when they said:

... the Senate would be a *complementary* legislative body, rather than a perennial rival of the House of Commons in the legislative process. Appointed Senators would not have a popular mandate — they would not have the expectations and legitimacy that stem from popular election. This would ensure that they would confine themselves to their role as a body mainly conducting legislative review, rather than as a coequal of the House of Commons.

If we have done nothing else, we have mirrored and debated so many feelings and viewpoints Canadians themselves have been engaged in. We have sent to the House of Commons our best compromise, our sober second thought on C-14 as guided by Canadians.

And, yes, we have the obligation of conscience vote, but that conscience vote I do not think is one of personal belief or viewpoint. I believe the decision about our vote must be placed within our contexts — that is, our times, our communities, our values, our standards, our witness hearings, our argumentations.

So, ultimately, based on our very best knowledge and understanding of all the evidence before us, we must do the right thing for Canadians. This is how I view a vote of conscience,

and clearly, surely, we may have different evaluations of our “contexts,” and even different contexts.

Finally, I will support the federal legislation, Bill C-14, as amended by the house, however minimalist it is, with the knowledge that we have understood it to represent a national commitment to an iterative approach to MAID through review and re-evaluation that will be reported back to each house of Parliament within a defined period of time. And I will hope that further study in a timely fashion, the independent reviews as defined in this bill, will ensure that vulnerable Canadians will have both the protection and the access they so rightly desire and deserve. Thank you.
