

The Role of the Senate

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February 5, 2016

9:00am – 4:00pm

(Lunch break: 12:00-1:00pm)

It is now clear that the abolition of the Senate can only occur with a resolution of the Senate, of the House of Commons, and of the legislative assembly of each province. Meanwhile, a new government has expressed greater openness to the idea of non-constitutional reforms of the upper house. So what does this mean for the future of the Canadian Senate? What role does the Senate play in the lives of Canadians and why should we endeavor to seek reform in the first place?

In examining the origins of the Senate, its role vis à vis the House of Commons, and the various possible non constitutional reforms available that can improve its credibility, this workshop will illustrate the important part the Senate plays in Canada and how it even goes so far as *saving Canadians from democracy*.

1- Why was the Senate created in the first place?

- a) Union of Canada, Nova Scotia and New Brunswick;
- b) Representation of regions;
- c) Bicameralism of the British Parliamentary model;
- d) Counter-weight to the House of Commons

2- The early Senate

- a) 3 regions, 72 Senators;
- b) Appointed for life;
- c) Qualification for members in the Constitution;
- d) Criteria for disqualification

3- Development of the modern Senate

- a) The role of government and the Senate, in the early years after Confederation;
- b) Change that came with WWI;
- c) Transformation continued with the Great Depression, WWII and the institution of social programs in the 60's.

4- Senate Reform

- a) Pressure for reform of the Senate, the anomaly of an appointed House
- b) Reform proposals in the late 70's and 80's;
- c) Constitution Act of 1982, no attempt to change the Senate;
- d) Alienation of the West;
- e) Meech Lake/Charlottetown;

5- Harper's Government Efforts

- a) 7 Bills
- b) Québec reference
- c) Supreme Court reference

6- Now what?

- a) Substantive reform needs support of provinces;
- b) Non-constitutional change possible-focus on appointment process;
- c) Constitutional reform need to look at relationship between the House of Commons and the Senate.

Required Readings (items available* at <https://reserves.concordia.ca/ares/>)

Ajzenstat, Janet, "Bicameralism and Canada's Founders", in Joyal, ed., *Protecting Canadian Democracy: The Senate You Never Knew*, McGill-Queen's University Press, Montreal and Kingston, 2003

http://encore.concordia.ca/iii/encore/record/C_Rb2352269?lang=eng

Docherty, D, "Upper Houses in the Canadian Provinces", *Restraining Elective Dictatorship: The Upper House Solution*, Aroney, Prasser and Nethercote, eds., University of Western Australia Press, 2008

<http://reserves.concordia.ca/ares/ares.dll/plink?145AD2B8>

Stillborn, Jack, "Forty Years of Not Reforming the Senate – Taking Stock" in Joyal, ed., *Protecting Canadian Democracy: The Senate You Never Knew*, McGill-Queen's University Press, Montreal and Kingston, 2003

<http://reserves.concordia.ca/ares/ares.dll/plink?14509318>

Reference re Senate Reform (2014): The Supreme Court Clarifies the Senate Reform Process.

<http://ualawccsprod.srv.ualberta.ca/ccs/index.php/constitutional-issues/federalism/767-reference-re-senate-reform-2014-the-supreme-court-clarifies-the-senate-reform-process>

*If you are registered for non-credit and are unable to locate the readings, please contact us at wssr@concordia.ca

Recommended Readings

Primary Sources, Including Edited Collections

Browne, G.P., ed., *Documents of the Confederation of British North America*, McGill-Queen's University Press, 2009

Canada's Founding Debates, Ajzenstat, Romney, Gairdner, eds., University of Toronto Press, Toronto, 2003

Canada, Parliament, Senate/House of Commons, *Report of the Special Joint Committee on Senate Reform*, 1984

Canada, Parliament, Senate, Special Committee on Senate Reform, 2nd Report, Motion to Amend the Constitution of Canada- Western Regional Representation in the Senate, October, 2006

Durham, Lord, *Report on the Affairs of British North America*, House of Commons, London, February 11, 1839

Canada, Supreme Court of Canada, *Reference re Senate Reform*, 2014 SCC 32, April 25, 2014

Texts and Monographs

Kunz, F.A., *The Modern Senate of Canada, 1923-1963*, and MacKay's *The Unreformed Senate of Canada*, 1926

MacKay, Robert A., *The Unreformed Senate of Canada*, revised and reprinted, McClelland and Stewart, Toronto, 1963

Moore, Christopher, 1867: *How the Fathers Made a Deal*, McClelland and Stewart, Inc., 1997

Russell, Meg, *Reforming the House of Lords*, Lessons From Overseas, Oxford University Press, Oxford, 2000

Russell, Meg, *The Contemporary House of Lords*, Oxford University Press, Oxford, 2013

Smith, David, *The Senate in Bicameral Perspective*, University of Toronto Press, 2003

Smith, David, *The People's House of Commons: Theories of Democracy in Contention*, University of Toronto Press, 2007

Stillborn, Jack, *Senate Reform Proposals in Comparative Perspective*, Library of Parliament PRBP-316-E, 1992

Chapters in Edited Collections

Ajzenstat, Janet, "Bicameralism and Canada's Founders", in Joyal, ed., *Protecting Canadian Democracy: The Senate You Never Knew*, McGill-Queen's University Press, Montreal and Kingston, 2003

Aroney, Prasser and Nethercote, "Upper Houses and the Problem of Elective Dictatorship", *Restraining Elective Dictatorship: The Upper House Solution*, Aroney, Prasser and Nethercote, eds., University of Western Australia Press, 2008

Aroney, N, "Bicameralism and representations of Democracy", *Restraining Elective Dictatorship: The Upper House Solution*, Aroney, Prasser and Nethercote, eds., University of Western Australia Press, 2008

Brennan, G, "The Logic of Bicameralism: A Rational Actor Account", *Restraining Elective Dictatorship: The Upper House Solution*, Aroney, Prasser and Nethercote, eds., University of Western Australia Press, 2008

Docherty, D, "Upper Houses in the Canadian Provinces", *Restraining Elective Dictatorship: The Upper House Solution*, Aroney, Prasser and Nethercote, eds., University of Western Australia Press, 2008

Franks, C.E.S., "The Canadian Senate in Modern Times", *Protecting Canadian Democracy: The Senate You Never Knew*, Joyal, ed., McGill Queens University Press, Montreal and Kingston, 2003

Meekison, Peter, et al., "The Institutions of Federalism: Myths and Realities", Meekison et al., eds., *Canada: The State of the Federation 2002*, Montreal and Kingston: MQUP

Patterson, Samuel C., and Mughan, Anthony, "Senates and the Theory of Bicameralism", in Patterson and Mughan, eds., *Senates: Bicameralism in the Contemporary World*, Ohio State University Press, Columbus, 1991

Stillborn, Jack, "Forty Years of Not Reforming the Senate", in Joyal, ed., *Protecting Canadian Democracy: The Senate You Never Knew*, McGill-Queen's University Press, Montreal and Kingston, 2003

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Russell, Meg, "What Are Second Chambers For?" *Parliamentary Affairs*, 2001, Vol. 54