

## Parliament and Democracy in the 21<sup>st</sup> Century: The Canadian Senate Reconsidered

Three years ago, in an article published in the *Canadian Parliamentary Review*, I commented on the general nature of the debate on Senate reform, which seemed to be based principally on empty slogans and simplistic criticisms. For too many public commentators, denigration has become a substitute for rigorous analysis. The tide of this facile approach to public policy discussion, which Pierre Elliott Trudeau once called "la nouvelle trahison des clercs," has even swept away some of those journalists usually recognized as keen and astute observers of the political scene.

To find a way out of this dead end debate, which invariably serves only to engender public cynicism about the political process and distrust of Parliament, it seemed appropriate to explore the potential for non-constitutional avenues to Senate reform that could provide real, immediate and substantial benefit to the institution.

To develop this option thoroughly, I sought the support of several scholars, as well as a fellow senator, all of whom have knowledge of the history of our parliamentary system. I asked them to reconsider the longstanding dogmas on the Senate. The end product is a 500 page volume containing many challenging ideas and assessments that completely overturn the familiar and erroneous caricature of the Senate drawn by so many of our political pundits and commentators. The Canadian Centre for Public Management has taken the initiative to publish the results of these revealing observations and conclusions. The book was written without the benefit of any funding grant but with the generosity of time and knowledge provided by all the contributors and with the support and the help of a large group of individuals who joined together to assemble a wealth of information.

Each of the nine contributors presents aspects of the Senate, its origins, development and operations that add to our understanding of this institution and how it can be effectively improved to better serve our parliamentary democracy. Janet Aizenstat, Professor of History at McMaster University and co-editor of *The Founding Debate*, explains that the Fathers of Confederation were

more astute and creative than is often acknowledged when they devised our bicameral Parliament. They understood that an Upper Chamber based on the federal principle would better secure the protection of minority, sectional and regional interests, within a majoritarian political culture that caters to the most powerful interests in society.

According to Professor Gil Rémillard, author of *Le fédéralisme canadien* and former Attorney General for Quebec, it was clear from its inception that the Senate would not be a replica of the House of Lords, despite any similarities. The fundamental purpose of the Canadian Senate was to serve a federal principle totally unknown to the House of Lords of the United Kingdom, a body conceived to serve a unitary state. In fact, the Canadian Senate is *sui generis*—uniquely adapted to serve the socio-linguistic and geo-economic diversity of a territory that soon spanned an entire continent.

In the last thirty years, twenty-eight proposals to reform the Senate were introduced by federal and provincial governments, as well as by national political parties. All of them failed. In reviewing each of them, Dr. Jack Stillborn, senior researcher at the Library of Parliament, comes to a compelling conclusion: every reform scheme lacked an adequate conceptual understanding of the institutional nature of Parliament. These reforms failed because they were developed in isolation from the system of checks and balances through which Parliament operates. They were developed without regard for their impact on the proper functioning of both Houses of Parliament, where the House of Commons is responsible to the electorate, while the Senate embodies the federal principle and acts as a complement to the Commons.

To help us understand the synergy of both Chambers, Professor Ronald Watts, of Queens University, has written a comparative analysis of upper chambers in other federal systems.

Is the modern Senate different from what was originally proposed? Professor C.E.S. Franks, of the Institute of Public Policy at Queen's University, reviewed the work of the Senate during the last



fifty years, in particular its relationship to the House of Commons. His findings acknowledge a dilemma that confronts any would-be reformer of the Senate: the dominance of the Executive over the House of Commons, which has reduced the elected chamber's capacity to effectively hold the Government accountable. In contrast, the Senate has continued to function credibly, though there is much room for improvement.

This basic conclusion is supported in the analysis of the legislative work and policy studies accomplished in the Senate. Professor Paul Thomas, of the University of Manitoba, observes important differences in the effectiveness of the work performed by each chamber.

Whatever good the Senate achieves is often overshadowed by the familiar criticisms against the institution. Yet how many of these criticisms are valid and how many are simply the expressions of ignorance and bias? Senator Lowell Murray, who has been a member of the Senate since 1979, goes beyond the clamour of the debate on Senate reform, drawing on his personal experience to provide an insightful assessment of those criticisms that require corrective measures.

What can really be done to adapt the Senate to better serve contemporary needs, short of a formal constitutional initiative? Professor David Smith, of the University of Saskatchewan, operates from the premise that a system of government is a coherent architecture, with each beam playing a supporting role. His analysis of a set of proposals for the improvement of the role, function and composition of the Senate is an articulate appraisal of the pivotal role of the House of Commons and the complementary nature of the Senate.

Finally, the closing chapter is intended to serve as an open forum for any upcoming initiatives on the Senate. In it, I present my views on the constitutional principles that are at the core of the Senate's mandate and structure. Specifically, the final chapter assesses the significance of the Senate's veto power, analyzes its system of appointment and reviews the nature of the Senate's independence in the face of conflicting institutional and party loyalties. Any comprehensive attempt at parliamentary reform must take these three issues into account.

The book is complemented with an appendix containing numerous charts that compare and analyze the composition of both Houses of Parliament.

Our system of government is founded on humanist principles. Our Constitution embodies a value system. Our parliamentary institutions are the product of those values, not the reverse. At its core, Canada's Constitution is based on the recognition and valorization of minority and human rights, which are supported by a subtle system of allocation of power to prevent the dominance of powerful interests at the expense of under-represented groups. This founding principle is perhaps even more valid today than it was in 1867.

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