
Time to Consider Abolition of the Senate

Hon. Brad Wall MLA

On November 6, 2013 the Legislative Assembly of Saskatchewan Assembly voted to repeal the Senate Nominee Election Act. Immediately thereafter the Premier introduced a motion that the Legislative Assembly of Saskatchewan supports the abolition of the Senate of Canada. Following speeches by the Premier, the Leader of the Opposition and other members the motion was adopted. The Government House Leader then asked the Speaker to transmit copies of the motion and verbatim transcripts to the Prime Minister of Canada and the leaders of the opposition parties in the House of Commons, as well as the premier of each Canadian province and territory. This article is a slightly abridged version of the Premier's speech on the motion.



This is an important issue that we are about to debate in the Legislative Assembly. It is not the most important issue facing the province of Saskatchewan. For most people, it probably would not rank in the top twenty. So we are not going to spend a lot of time on the bicameral nature of our federal government and whether that should change.

But we are going to make, I believe, an important pronouncement not just to our own provincial citizens to whom we are responsible, for whom we work, but I think as well to the country, to let them know that the province of Saskatchewan after some considerable deliberation — and not at all revolving around current affairs, though perhaps informed to some degree by them — have come to a view of what might be best for the country with respect to that bicameral parliament.

We have had a history of upper chambers in our country, not just at the national level but at the subnational level. I think it is interesting to quickly

canvass the history — some of them very short — of these upper chambers at the provincial level.

In 1876 Manitoba abolished its upper chamber. In 1876, the same year, the province of Ontario also abolished its senate. New Brunswick did it in 1892, Prince Edward Island in 1893 and Nova Scotia in 1928. In Newfoundland, their legislative councils were suspended in 1934 but when they came into Confederation in 1949, they came in as a unicameral House without a senate. So they had obviously made a decision that an upper chamber was not necessary in the interests of the people of Newfoundland and Labrador. The latest province to move away from a legislative council or a senate chamber was the province of Quebec in 1968.

I do not want to belabor the points with respect to each of these decision points in each of these provinces, but I do want to focus a little bit if I can on the decision in Nova Scotia, both because I think it provides some symmetry now and informs us in this debate today, but it also provides a cautionary note about how difficult it is — and we ought to be under no illusions in this Assembly — about how difficult it might be to move away from an upper chamber.

The Nova Scotia upper house began in 1838. In the period following Confederation, the legislative council came under increasing fire as unnecessary, expensive, and anachronistic. Interestingly, the people of Nova Scotia, at least a good many of them, came to the conclusion that the upper chamber was

Brad Wall is Premier of Saskatchewan.

an anachronism. And so pressure mounted for the legislative council to be abolished, and what followed was almost 50 years — this is the sobering part for those of us who might think, well this might happen in short order — it took 50 years for Nova Scotia politicians to actually be rid of the senate.

There was a Conservative government under Premier Rhodes that replaced a four-decade regime, a Liberal regime. And they tried a hefty severance salary for their provincial senators. That did not work. So they came up with a novel solution. The premier of the day simply started appointing senators who were abolitionists and they effectively voted themselves out of existence.

So I think it is fair to say that we have examples of the abolition of senates at the provincial level. I understand this is not perfectly analogous to what we are debating today, but at least it is instructive, and I think it is informative.

What about the history of our own national upper chamber, the Canadian Senate? It is interesting to reflect on the words of our first prime minister, Sir John A. Macdonald. He said this, “In the Upper House, equality in numbers should be the basis. In the Lower House, population should be the basis.”

The definition though of equality at that time was not the equality of the subnational units. He was not talking about that. Their concept for the Senate representing equality in the country, if the House was rep by pop and represented the population, was that the Senate would represent the regions. At the time, I think that would probably be a reasonable measure of equality.

But what happened in the intervening years of course is that provinces like Saskatchewan and Alberta came into the national family. When all of that was done, finishing with Newfoundland and Labrador in 1949 and Nunavut in 1999, then we had a strange situation. The principle of equality was supposed to be based on an equality of the regions where a region like Western Canada would basically have the same number of representatives in the upper house as the region of Ontario. But of course we know that Ontario is not a region; it is a province.

So I think the Senate lost the opportunity to provide a truly equal body. If the House of Commons is representative of the people, the Senate, if it is working, should be representative of the units, of the subnational units — the provinces, in this case — of Confederation. So I do not think it is passing the test of equality today.

What did Sir John A. Macdonald say about how effective this body should be? He said, “It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House.” He wanted it to be more than a mere chamber for registering the decrees of the lower house. It ought not to just be a rubber stamp.

We know that for the most part, throughout all these decades, that is what it has been. Part of the reason for that is that senators are part of their respective parliamentary caucuses. They are going to be a part of a government caucus. They are going to be part of an opposition caucus. And for the most part, they will vote the party line of those respective caucuses. And so they will perhaps not be able to even represent the regions, even though we think equality of the provinces, they might not be able to represent the regions as best they could if they were independent. That is the first point. The second point is they may not be very effective as they would likely wind up being a rubber stamp, with the government senators simply voting with the government caucus.

By those two measures, the Senate has failed the test of being equal, in the modern definition, in terms of each province having equal representation. It has failed the test of being effective. There has been important work done by the Senate. This is not in any way a criticism of individuals who have served in the Senate. But we have to ask ourselves, could the work they have done that we consider worthy and worthwhile be done without a Senate? We have already talked a little bit about the ability for the Senate to make significant inquiry on issues and then report back to Canadians in a thoughtful and in-depth way. Well I would submit that the provinces do this with the unicameral systems, and the House of Commons could do it through their committee system, through the ability of the Prime Minister and the cabinet to appoint Royal Commissions. There is the chance for a sort of thoughtful discussion and the sober second thought that is often touted as one of the attributes of the Senate.

So if it really has not worked in terms of the principle of equality that John A. ascribed to it, and if it has not really worked in terms of the quality of being effective, then we need to ask ourselves, is the status quo worth fighting for, worth maintaining, or should we be looking at something else?

I have heard some constructive comments in debate. We have had it in our own party. This motion represents an evolution of our party policy. In fact we balloted our members here not too many months ago

in the late spring, early summer: 3,727 ballots were returned; 3,216 voted in favour of abolition — 87 per cent. That is why we have changed our position. But as we have had this discussion and debate, there have been many good questions that members of the party have asked and that members of the public have asked because we want to also make sure we are representing the people of the province, not just party members.

One concern that I have noted is what happens in our country if there is a prime minister or a federal government that for whatever reason undertakes policies that are of particular harm on a region, maybe in our case on Western Canada? If we do not have a senate do we lose a last line of defence? I think it is important that we just canvass our own history with that same question because there have been examples when a federal government has taken actions that have hurt a region. The one that we would remember in our part of the world with clarity is the National Energy Program introduced by Prime Minister Trudeau. This was very damaging policy to all of Western Canada.

I am sure there would have been senators at the time who decried the policy, but I cannot tell you their names. Here is a name I remember: Peter Lougheed. When it came to that particular battle against the National Energy Program, I remember a premier's name. Because what has happened is that the provinces have filled a vacuum left by a senate. Maybe John A. wanted it to be equal, maybe John A. wanted it to be effective, but because of parliamentary whip votes and party discipline and because of the nature of the appointments to the Senate and because it represents regions, not provinces, the *de facto* balance to a federal government is the provincial governments of this country.

Some people would say, well but Peter Lougheed did not stop the National Energy Program. Well did he or did he not? Western Canada, I think, was heard by a national party that was able to contest the next election. And because the House of Commons is elected and accountable, the next election defeated the Trudeau government, elected a Conservative government, and the National Energy Program was ended. So it did not happen right away, but that provincial voice within Confederation, not the Senate, did prove to be the balance against a heavy-handed government that took action against a region that objected strongly to the positions that they had taken.

So to conclude, there is a great consensus that the status quo is not on. There are really only four options

and I will quickly talk about those, and then I want to make way for the Leader of the Opposition who has come to this position long before I did.

The first option is a completely reformed Triple-E Senate. The second is a marginally reformed or incrementally reformed Senate. We have seen some tinkering around the edges and I credit the federal government for trying. The third option is abolition, and the fourth is abolition with a view to rebuilding something in its place that might work.

With respect to option one, I used to believe that we ought to advocate always for a meaningfully reformed Senate, specifically a Triple-E Senate. I have come to the considered opinion that this is impossible, that any change is difficult but this is impossible. I have never heard a premier of a populous province in the short time I have had this job, who supported a Triple E Senate. Whatever the Supreme Court is going to say about the amending formula you are going to need the support of the populous provinces.

Even when those provinces were at their most generous with respect to the Senate during Meech Lake — credit Premier Peterson of Ontario and credit Premier Bourassa of Quebec — even then, when they were prepared to move on the Senate, they were not prepared to move to a Triple-E. I do not blame them. How would you explain to your citizens, that you have given up one of the advantages you have in a major institution of parliament?

What about a marginally reformed Senate where we elect a few and maybe put term limits on it? There are a couple of problems with that. Not all the provinces are going to elect senators. That is very clear. In fact hardly any of them are. So then what would you have? Well you would have a hybrid Senate with a tiny minority elected, giving some legitimacy frankly to an institution whose huge majority would be appointed in the same old way, by the party in power. What else is wrong with the marginally reformed Senate, as I have understood it, is that there is still an appointment and you stay there for a longtime.

I think all members in this House would agree that we all have a lot more focus on our work here mindful of the fact that in four years we will face the bosses in an election. What good is it if you do not have the accountability of facing re-election, of going back to the voters and explaining what your position was on the potash takeover or why you filled out that form or why you said this? You know, it is Thanksgiving that focuses the mind of turkeys and this hybrid version lacks Thanksgiving. It lacks that moment of focus.

Now abolition. I think that we have made the case that the House of Commons has at its disposal all the tools of inquiry, all the moments to pause in between legislation, all the opportunity to consult that a senate would give to it. And it also has the accountability of facing a re-election.

Now abolition will be difficult. I am not naive about it and here is why. I have heard two Premiers from populous provinces, the former premier of Ontario and the former premier of British Columbia, Premiers McGuinty and Campbell, support abolition. We cannot presuppose what the Supreme Court's going to say. But if the Supreme Court says we must use the 7/50 formula maybe we have British Columbia and maybe we have Ontario. That is why I believe abolition to have a greater likelihood of succeeding than reform.

Finally there is the option of abolishing the senate with a view to starting over. I understand that people are very passionate and support the principles of bicameralism. I understand the notion around checks and balances. What is happening in the United States, by the way, and the paralysis there in terms of their ability to deal with a major fiscal problem, relates directly to this question of checks and balances. And if we are interested in politics we should have the discussion of how much is too much, how much actually leads to that paralysis where you cannot fundamentally deal with an existential crisis within your own borders. But still I do understand the principles of bicameralism.

Writing in the *National Post* on July 4, 2013 Ted Morton from Alberta said: "It might be better to adopt a two-step approach. First, wipe the slate clean by abolishing the current Senate. Then start from scratch in designing a new model for an elected Senate that can be presented to Canadians."¹ I think if you believe that, you could support this motion.

Andrew Coyne, who is a well-known commentator in the country, said this: "So long as the Senate remains in place, the thinking runs, there will be too

many vested interests, provincial or otherwise, with a stake in the status quo." And this is not in his quote, but I would say chief among them, by the way, are the senators themselves. But the quote goes on:

"Once it was torn down, it might be easier to come up with a reform plan that was satisfactory to all sides. Even if the attempt failed, we should at least be rid of the Senate as it is, sparing the country the embarrassment of an appointed house, well known as a den of patronage even without its recent ethical lapses, substituting its wishes for those of the democratically elected Commons."² (*National Post*, July 13, 2013). That makes some sense to me as well.

So I think the only options of these four are abolition, and abolition with a view to starting over. The status quo is not on. The status quo is an anachronism.

Can a unicameral parliament, the House of Commons, facing the accountability of election, with all of the tools of consultation at its disposal, be worthy of the kind of government that Canadians deserve? I think it can be, especially if the federation has strong provincial capitals were committed to stand up for the interests of their provinces regardless of who was in Ottawa. Can that work for Canada? Absolutely it can work for Canada. But we are going to need the resolve to move forward. We are going to need the resolve to move past the Senate and that is what I am hoping the province of Saskatchewan sends as a message to this country.

It is time to move on. It is time to give Canadians the kind of democratic, accountable government that they deserve.

Notes:

- 1 Ted Morton, "Abolish the Senate, then reform it," *The National Post*, July 4, 2013.
- 2 Andrew Coyne, "Why creating a 'ghost' Senate may be our best shot at reforming the Red Chamber", "Abolish the Senate, then reform it," *The National Post*, July 19, 2013.