**Reforming the Senate**

**Sober second thoughts on a place of sober second thought**

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It's not easy making major changes to a Canadian institution like the Senate. Just ask former B.C. premier Bill Bennett, former Alberta premier Peter Lougheed, Reform Party founder Preston Manning and former prime minister Brian Mulroney. Former prime minister Pierre Trudeau would agree, too, but for different reasons.

Now, Prime Minister Stephen Harper has his eye on remaking the upper chamber. It's a view he's held for a long time.

Overhauling the Senate requires constitutional reform, which means the government has to persuade seven provinces containing at least 50 per cent of the population that its plan is in the best interests of everyone. Making subtle changes to the way senators are appointed *may* be easier: the government believes it only needs to get a bill through Parliament.

After winning a majority government in May 2011, Harper is expected to introduce — for the fourth time — two bills to reform the Senate. That legislation would impose term limits on senators and set a mechanism for the provinces to elect nominees who would then be appointed to the Senate by the prime minister.

**Senate appointments**

In all, 913 people have been appointed to the Senate since Confederation. Here's a look at the number of senators appointed under the different prime ministers.

**Sir John A. Macdonald:** 91

**Wilfrid Laurier:** 81

**Robert Borden:** 62

**William Lyon Mackenzie King:** 103

**John Diefenbaker:** 37

**Lester Pearson:** 39

**Pierre Trudeau:** 81

**Joe Clark:** 11

**Brian Mulroney:** 57

**Jean Chrétien:** 75

**Paul Martin:** 17

**Stephen Harper:** 40

*Source: Parliament of Canada*

But at least one province — Quebec — has said it feels the proposed reforms affect its constitutional rights and that it plans to challenge the legislation in the courts.

Harper's previous efforts to pass the bills failed in the face of opposition in the House of Commons or a Liberal majority in the Senate. Now, however, the Conservatives have majorities in both houses.

Citing certain constitutional authorities, the Harper government is ready to argue that the proposed legislation doesn't require constitutional change.

And at least two provinces — Ontario and Nova Scotia — figure it's time to move beyond any talk of Senate reform and abolish the institution all together.

**Creation of Confederation**

The Senate, which came into being through the Constitution Act of 1867, was originally meant to act as a balance to the unchecked democracy of the House of Commons. But it didn't take Canada's first prime minister, Sir John A. Macdonald, long to decide that giving legislative veto power to a group of appointed wealthy men might not be in the best interests of the country.

The Senate's powers — but not its makeup — were altered so that the upper house could not defeat money bills or delay legislation unreasonably.

However, like the British House of Lords, senators would be allowed to keep their seats — and the salary that came with them — for life.

That changed in 1965 when the government of Prime Minister Lester B. Pearson passed legislation that forced senators to retire when they hit the age of 75. Anyone appointed before the legislation passed was exempted from the mandatory retirement rule.

**Diverse agendas, similar goals**

Calls for significant Senate reform began to be heard in the mid-1970s. Trudeau was making the case for constitutional reform, highlighted by a charter of rights. At the time, B.C.'s Bennett promoted a new model for the Senate, which he called the "House of the Provinces" in which provincial governments would choose senators to act as their delegates to the central government.

The idea had some support from both sides — but for different reasons. Trudeau, the advocate of a strong central government, felt that a senate made up of provincial representatives might actually weaken the authority of the provincial premiers.

At the time, Canada was undergoing significant demographic shifts. The populations — and economic clout — of Alberta and B.C. were growing much faster than Quebec's. Quebec still held 24 Senate seats while Manitoba, Saskatchewan, Alberta and B.C. held a combined total of 24.

By 1979, opposition to Trudeau's vision of a regionally enhanced Senate scuttled any notion of reform — as well as efforts to change the constitution. However, Bennett's proposal did serve to revive the idea of Senate reform.

Alberta was next to look at what to do with the Senate. Trudeau's National Energy Program had angered Albertans and then-premier Lougheed was looking for ways to keep Ottawa from intruding into his province's affairs.

Louigheed established a task force to look at ways of reforming the Senate and its recommendation was for the direct election of senators — and an equal number of senators for each province, like the American model.

The task force didn't get much attention in the rest of Canada, but an equal and elected Senate became a rallying cry for many Albertans.

**Triple-E and Meech Lake**

Then came the Meech Lake accord. It contained a provision that would have changed the way senators are selected. When a Senate vacancy came up, the prime minister would pick a name from a list submitted by the province where the vacancy arose.

As Meech was coming together, Preston Manning was turning his Western populist movement into the Reform Party. Part of its platform was a Triple-E Senate: elected, equal and effective, the latter meaning that an elected Senate would have close to the same powers as the House of Commons.

The Charlottetown accord contained more wide-ranging proposals for Senate reform.

Among the proposals were: an elected Senate — either by popular vote or election by members of provincial or territorial assemblies; six senators from each province and one from each territory; and guaranteed aboriginal representation in the Senate. In addition, the Senate could not defeat the government on a motion of confidence or block the routine flow of legislation relating to taxation, borrowing and appropriation. The accord also said senators should not be eligible to hold cabinet positions.

The reforms would never come to pass, doomed by the accord's rejection in the 1992 national referendum.

The constitutional squabbles, however, did not stop individual provinces from acting.

In 1989, a Senate seat became vacant in Alberta. The provincial government held an election among candidates who wanted the seat. Stan Waters won. A year later, Mulroney — who was still looking for provincial support in ratifying the Meech Lake accord — appointed Waters to the Senate.

Waters died a year later. His vacancy was eventually filled by Prime Minister Jean Chrétien the way prime ministers had always appointed senators.

In fact, it would be almost 20 years before another elected senator would join the chamber. Bert Brown, a longtime champion of Senate reform, took the most votes in Alberta's 2004 Senate election and was appointed in April 2007 by Stephen Harper.

Alberta and B.C. eventually passed legislation that provided for Senate elections. (The B.C. law, however, had a sunset provision and eventually expired.) Saskatchewan introduced legislation to that effect in November 2008.

**The Harper era**

The Reform Party — and its successor, the Canadian Alliance — continued to call for an elected, equal and effective Senate. But since the Alliance and the Progressive Conservative parties got together to form the Conservative Party of Canada in 2003, these calls have not been as loud.

In the campaign leading up to the January 2006 election, Harper promised to make the Senate a more effective and independent body.

After being elected as prime minister, Harper named Michael Fortier to a vacant Senate seat from Quebec — and then appointed him to his cabinet. (Fortier resigned his Senate seat on Sept. 8, 2008 to run in the federal election but he lost and returned to his law practice in Montreal.)

On May 30, 2006, Harper's government then introduced legislation that would limit senators to eight-year terms.

In December 2006, Harper said he would introduce the Senate appointment consultations act, which would allow government to consult Canadians on Senate appointments. "The bill will see voters choose their preferred Senate candidates to represent their provinces or territories," the government said in announcing the bill.

However, two years and one federal election later, the prime minister had not been able to initiate significant Senate reform. He named 18 new senators to be appointed by the Governor General to the upper chamber in December 2008.

After the May 2011 election, Harper named three defeated Conservative candidates to the Senate. Two of them had given up Senate seats to run in the election.

**A chronology of the Senate expenses scandal**

**From the moment the auditor general began his inquiry until charges against Brazeau were dropped**

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*Another chapter in the Senate expense scandal closed Wednesday with the Crown officially withdrawing charges of fraud and breach of trust against Senator Patrick Brazeau. Here is a timeline of the scandal which involved concerns that Senators were claiming expenses illegally, especially concerning the housing allowance given to Senators for having a second residence in Ottawa.*

* **June 13, 2012:** Auditor general Michael Ferguson [**releases a study of Senate expense claims;**](http://www.cbc.ca/news/politics/auditor-general-finds-contracting-problems-in-house-senate-1.1177039) in some cases Senate administration didn't have the right documents to support claims for travel and living expenses. No senators are named in the review, which only looked at a small number of claims.
* **Nov. 21, 2012:** A Senate committee is [**asked to examine housing allowance for Brazeau,**](http://www.cbc.ca/news/politics/patrick-brazeau-s-senate-housing-allowance-questioned-1.1279922) a Conservative senator who lists a home in Maniwaki, Que., as his primary residence despite appearing to live full-time within a 100-kilometre radius of Ottawa.
* **Dec. 3, 2012:** Similar questions are raised about Conservative Sen. Mike Duffy, who claims a primary residence in P.E.I. despite being a longtime Ottawa resident.
* **Dec. 6, 2012:** The Senate [**expands its audit of housing expenses**](http://www.cbc.ca/news/politics/senate-living-expenses-brouhaha-sparks-audit-1.1295561) to include Liberal Sen. Mac Harb, who claims a home near Pembroke, Ont., as his primary residence despite being a longtime Ottawa politician. The upper chamber begins examining [**residence claims of all senators**](http://www.cbc.ca/news2/interactives/senators/), who are constitutionally bound to be residents of the provinces they represent.
* **Feb. 8, 2013:** Senate hires external auditing firm Deloitte to review Brazeau, Duffy and Harb expense claims.
* **Feb. 28, 2013:** Senate audit fails to turn up any questionable housing allowance claims beyond those of Brazeau, Harb and Duffy.
* **May 9, 2013:**Senate releases [**a report into housing claims**](http://www.cbc.ca/news/politics/read-the-senate-expense-audits-and-reports-1.1343327), along with the Deloitte audits. Deloitte says the three senators live in Ottawa area, but that the rules and guidelines are unclear, making it difficult to say categorically that anyone broke the rules. [**Harb and Brazeau are ordered to repay $51,000 and $48,000**](http://www.cbc.ca/news/politics/senators-ordered-to-repay-housing-and-mileage-expenses-1.1343329), respectively. Harb says he will fight the decision.
* **May 12, 2013:** RCMP says [**it will examine Senate expense**](http://www.cbc.ca/news/politics/rcmp-confirms-it-s-looking-into-senate-expense-claims-1.1345727) claims.
* **May 14, 2013**: Brazeau says [**he also broke no rules and is exploring all options**](http://www.cbc.ca/news/politics/brazeau-says-he-ll-fight-senate-order-to-repay-expenses-1.1375109) to overturn an order to pay the money back.
* **May 16, 2013:** Duffy [**resigns from Conservative caucus**](http://www.cbc.ca/news/politics/senator-mike-duffy-quits-tory-caucus-1.1407162)amid revelations that the Prime Minister's Office worked behind the scenes to quash Duffy's audit and that [**chief of staff Nigel Wright gave Duffy a personal payment**](http://www.cbc.ca/news/politics/nigel-wright-has-full-confidence-of-pm-after-duffy-cheque-1.1333044) to help repay about $90,000 in expense claims.
* **May 17, 2013**: Sen. Pamela Wallin announces she's leaving the Conservative caucus. Her travel expenses, which totalled more than $321,000 since September 2010, have been the subject of an external audit since December.
* **June 3, 2013:** Sen. Marjory LeBreton, the Conservative leader in the Senate, says [**she intends to ask the auditor general to look into all the expenses of the upper chamber**](http://www.cbc.ca/news/politics/tory-senate-leader-calling-in-auditor-general-on-expenses-1.1310915). LeBreton says she will introduce a motion calling for a comprehensive audit of expenses.
* **June 13, 2013**: Brazeau and Harb are g[**iven 30 days to reimburse taxpayers for their disallowed living expenses**](http://www.cbc.ca/news/politics/senator-mac-harb-advised-to-pay-up-or-face-more-scrutiny-1.1368530) — bills that together total more than $280,000.
* **Aug. 13, 2013:** The full extent of [**Wallin's questionable expenses are laid bare**](http://www.cbc.ca/news/politics/pamela-wallin-s-troubling-expense-audit-headed-to-rcmp-1.1391071) as the Senate releases an audit of her travel claims, calls in the Mounties and orders her to repay tens of thousands of dollars.
* **Aug. 21, 2013:** Wallin is [**informed she would have to reimburse the Senate a grand total of $138,970**](http://www.cbc.ca/news/politics/pamela-wallin-s-final-senate-repayment-bill-139k-1.1321812) for ineligible travel expense claims. Wallin was already on the hook for $121,348 after an independent audit of her travel expenses.
* **Aug. 26, 2013:** Harb[**resigns from the upper chamber**](http://www.cbc.ca/news/politics/senator-mac-harb-pays-back-231-000-in-expenses-retires-1.1308485) after having earlier left the Liberal party to sit as an independent. He also drops a lawsuit and promises to repay his questioned living and expense claims.
* **Sept. 6, 2013:** Wallin is told she has until Sept. 16 to repay tens of thousands of dollars in ineligible travel expenses.
* **Sept. 13, 2013:** Wallin [**pays back her dubious travel claims**](http://www.cbc.ca/news/politics/pamela-wallin-repays-100k-in-expenses-blames-senate-lynch-mob-1.1828437) while accusing some fellow senators of succumbing to a "lynch mob" mentality. The Saskatchewan senator says she has paid back $100,600, plus interest, on top of $38,000 already repaid all from her own funds.
* **Oct. 17, 2013:** Claude Carignan, the government's new leader in the Senate, introduces motions to suspend Duffy, Wallin and Brazeau from the Senate. The motions call for the three to be stripped of their pay, benefits and Senate resources.
* **Oct. 22, 2013:** In an explosive [**speech in the Senate chamber, Duffy accuses Prime Minister Stephen Harper's**](http://www.cbc.ca/news/politics/senator-mike-duffy-in-his-own-words-1.2159561) office of orchestrating a "monstrous fraud" aimed at snuffing out controversy over his expenses. Duffy accuses the prime minister of being more interested in appeasing his Conservative base than the truth.
* **Oct. 23, 2013:** Wallin follows Duffy's lead with her own speech in the Senate, describing the suspension motion against her as "baseless and premature" and designed "to remove a perceived liability, namely me."
* **Oct. 25, 2013:**Brazeau drops a bombshell of his own, [**saying Carignan earlier that same day took him aside and offered him "a backroom deal":**](http://www.cbc.ca/news/politics/patrick-brazeau-says-he-was-offered-backroom-deal-1.2251356) apologize publicly for his actions in exchange for a lighter punishment. Carignan acknowledges the conversation but described the offer as one made out of "friendship."
* **Oct. 30, 2013:** Senate Speaker Noel Kinsella rules that an attempt to cut off debate on motions to suspend Duffy, Wallin and Brazeau from the Senate is out of order. This delays again the effort to suspend the trio.
* **Nov. 1, 2013:** Documents filed in [**court by the RCMP explicitly allege Wallin "did commit breach of trust in connection with the duties of office"**](http://www.cbc.ca/news/politics/pamela-wallin-committed-fraud-breach-of-trust-rcmp-allege-1.2325642)and "by deceit, falsehood or other fraudulent means defrauded the Senate of Canada of money by filing inappropriate expense claims," contrary to the Criminal Code. The documents include a request for several versions of Wallin's electronic Senate calendar, citing them as further evidence that could back up the allegations.
* **Nov. 4, 2013:** Brazeau addresses the Senate chamber, making an emotional appeal for senators to reconsider his case. At one point, he addresses his children: "It is very important that you understand that I am not guilty of what some of these people are accusing me of.... I am not a thief, a scammer, a drunken Indian, a drug addict, a failed experiment or a human tragedy."
* **Nov. 5, 2013:**Senators [**vote to suspend Brazeau, Duffy and Wallin without pay**](http://www.cbc.ca/news/politics/senate-votes-to-suspend-brazeau-duffy-wallin-1.2415815) — but with health, dental and life insurance benefits intact — for the remainder of the parliamentary session, which expired with the election call in 2015.
* **Jan. 29, 2014:** Liberal leader Justin Trudeau [**expels the 32 Liberal senators**](http://www.cbc.ca/news/politics/justin-trudeau-removes-senators-from-liberal-caucus-1.2515273) from his caucus in what he calls an effort to reduce partisanship in the upper chamber. He says if he becomes prime minister he would appoint only independent senators, chosen through an open, public process.
* **Feb. 4, 2014:** The RCMP [**lay charges of fraud and breach of trust against Harb and Brazeau.**](http://www.cbc.ca/m/touch/politics/story/1.2522431)
* **July 17, 2014:** The RCMP[**charge Duffy with 31 counts of fraud, breach of trust and bribery.**](http://www.cbc.ca/news/politics/mike-duffy-charges-read-rcmp-statement-and-details-of-31-counts-1.2709928)
* **May 26, 2015:** The[**Senate appoints Ian Binnie, a retired Supreme Court of Canada justice**](http://www.cbc.ca/news/politics/ian-binnie-ex-supreme-court-justice-to-arbitrate-senate-expense-claims-1.3087739), as a special arbitrator for questioned expenses being found in the review by auditor general Michael Ferguson.
* **June 9, 2015:** Auditor general Michael Ferguson [**releases an audit that flags 30 senators for questionable expenses**](http://www.cbc.ca/news/politics/auditor-general-s-report-into-senate-expense-claims-released-today-1.3105002), including nine that he recommends be sent to the RCMP for review.
* **March 21, 2016:**[**Binnie releases his report.**](http://www.cbc.ca/news/politics/justice-binnie-senate-arbitrator-1.3500650) He says in 10 of 14 cases of questioned expenses, he reduced the total. Senators were often mixing personal business with Senate business in order to better justify their travel claims. He says he imputed no bad motives to any of the senators, who generally didn't understand the rules governing their spending.
* **April 21, 2016:** Duffy is [**acquitted on all counts**](http://cbc.ca/1.3545846) and returned to the Senate in full standing.
* **May 19, 2016:** The RCMP say they will [**not lay charges against Wallin**](http://cbc.ca/1.3589497), ending a three-year investigation.
* **May 20, 2016:** Prosecutors [**drop charges against Harb**](http://www.cbc.ca/news/politics/retired-senator-mac-harb-criminal-charges-withdrawn-1.3590980), saying they saw no reasonable prospect of conviction.
* **July 13, 2016:** Prosecutors [**drop the charges against Brazeau,**](http://www.cbc.ca/news/politics/senator-patrick-brazeau-court-charges-1.3676831)saying they saw no reasonable prospect of conviction.
* Brazeau is returned to the Senate in full standing.

The course-changing consequences of senate reform

KENNETH WHYTE

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*http://www.theglobeandmail.com/opinion/the-course-changing-consequences-of-senate-reform/article32685116/*

The first time I met Peter Lougheed, I was a groundskeeper at the Alberta Legislature. It was toward the end of his 14-year run as premier, and he came down from his office one day at lunch hour to toss a football with us on the lawn.

A decade or so later, with a haircut and a very different wardrobe, I met him again to interview him for my column in The Globe and Mail. He said, “Nice to meet you.” I told him we had met before and mentioned the time he had played catch with us. He paused for an instant and said, genuinely, “I knew I remembered you from somewhere!”

Of course, he didn’t. Not a chance. But he was a great politician, perhaps the most successful politician in Western Canada over the past 50 years.

We talked at lunch about Senate reform, which was in the air at the time. He was trying to convince me that the Meech Lake Accord version of Senate reform was preferable to the Elected, Effective, Equal (Triple-E) version of Senate reform some of us preferred. He did a good job. Again, he was a great politician.

I don’t want to relive that debate here – the details of Meech are deep in history’s dumpster – but I do want to channel Mr. Lougheed’s thinking to developments in Justin Trudeau’s Senate today.

What happens when you unleash the hounds of reform in the Senate, as the Liberals have now done by quashing partisanship, and increase the legitimacy of its members?

Mr. Lougheed was a great careerist as well as a great politician, and he had thought about Senate reform with both career and politics in mind. He believed that any step toward Senate reform would transform the institution at the expense of the House of Commons, so much so, he said, that “if I was starting out in national politics today, there’s no way I’d waste my time in the Commons. I’d want to be in a reformed Senate.”

He started with the math. Try it yourself. There are 338 members in the House of Commons (there were slightly fewer back then). There are 105 members of the Senate. If you’re an ambitious politician, do you want to be one of 338 or one of 105?

Then there’s risk. A senator is appointed, not elected. And appointed until dotage. An MP has his or her job on the line every four or five years, and may lose it for reasons that have nothing to do with individual performance. Which would you take, regular elections or tenure? (Dumpster note: In any of the reform plans at play during the Meech talks, senators enjoyed longer terms than MPs, even if they had to run for them.)

Then there’s the matter of power. By convention, the Senate is a chamber of “sober second thought,” or at least second thought, and because its members are not elected they have limited themselves to that role.

Formally, however, the Senate has virtually equal powers to the House of Commons. It can’t originate money bills but it can reject, rewrite or obstruct money bills, and do pretty much anything else the House can do. All it lacks is legitimacy, and therein lies the magic of the reformed Senate.

“Think about it,” Mr. Lougheed said to me about five times. A reformed Senate is automatically a more legitimate Senate, and a legitimated Senate will inevitably feel itself entitled to use some or all of the vast powers afforded it in our system of government.

Mr. Trudeau is now appointing senators on merit through a formal review process.

You don’t think senators judged worthy by a panel of worthies to fill constitutionally mandated roles won’t *eventually* feel entitled to use the powers at their disposal? It’s true they haven’t twigged to it yet but they’ll catch on some day – remember, time is on their side.

You don’t think Canadians will stand for them using those powers without sanction of election? Eventually, these senators will behave more like Supreme Court justices than like MPs, and Canadians respect their Supreme Court justices just fine.

Wait, there’s more. Senators have more freedom than MPs, for reasons both formal and political. Because a government can fall on a confidence vote in the Commons, a certain amount of party discipline is required in that chamber. And because MPs ride into office on the coattails of a prime minister, and owe their seats on committees and in cabinet to the favour of the prime minister, they are easily housebroken.

Once a senator is appointed, he or she is good for life, free to vote his or her conscience, free to follow personal interests or priorities.

MPs would kill for a taste of that freedom (or they would, if they weren’t neutered). This ability to exercise one’s judgment and integrity also enhances a senator’s legitimacy and, it follows, the senator’s willingness and ability to exercise power.

So, at the end of the day, senators have three times the profile, far more security, roughly the same formal powers and infinitely more freedom and real power than their Commons colleagues. Where do you want to be?

Let’s approach it another way. If you’re a premier in a Canada with a reformed Senate – and this was a specific point Mr. Lougheed raised – who are you going to call when you need a bill amended on its way through Parliament? Do you call your lowly, anonymous, hopelessly whipped MPs, presuming your province elected some to the government of the day?

Or, do you invite your senators, who are less partisan, at liberty to listen and probably smarter and more experienced than your MPs, to your lodge for the weekend?

This new parliamentary reality would have happened quickly if Meech had passed and the Senate had been reformed decades ago. It’s going to happen gradually now under the new regime Mr. Trudeau has instituted. It might not happen to quite the same extent it would have happened under Meech, but it will definitely happen.

Senators no longer bound to party caucuses will form their own caucuses and alliances. They will learn to pool their votes, or log roll. The lists of amendments appended to bills from the Commons will get longer and longer, and the negotiations between the chambers to land a bill will get tougher. Eventually some senator will draft an act all on his lonesome, and after that they’ll all be draftsmen.

Corporations, lobbyists, special interest groups and ambassadors will start spending time with senators, especially committee chairs, who will become as important as cabinet ministers in Ottawa (and more expert, given the odds on their longevity).

Senators will become head-table fixtures at chamber of commerce luncheons and prized guests on television shows. Not only will these outside forces want to meet and buy senators, they’ll eventually try to plant their own people on lists for consideration as new senators.

I’m not sure how much thought the Liberals gave to Senate reform before they began to reform the Senate, but we’re on our way now, and it’s going to be a long, interesting and consequential journey.

Some day, a long while from now, it just might look like the most significant thing Mr. Trudeau ever did.

Keep, reform or abolish: What to do about the Senate

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\*Many links in this article to other effective articles

<http://www.theglobeandmail.com/news/politics/keep-reform-or-abolish-what-to-do-about-the-senate/article25660458/>

Prime Minister Stephen Harper is [expected to make a statement](http://www.theglobeandmail.com/news/politics/harper-wall-to-call-for-abolition-of-senate-on-friday-report/article25658737/) on Friday about the scandal-plagued Senate, with [one report](http://news.nationalpost.com/news/canada/canadian-politics/stephen-harper-brad-wall-expected-to-call-for-senate-abolition-on-friday-source) suggesting he would call for abolishing the Red Chamber. The question of changing or getting rid of the Senate has had a fraught history. Here are the three options.

**Keep it the way it is**

As it is now, senators are appointed by the prime minister of the day to serve until they are 75 years old. All legislation must be passed by a majority vote of the Senate, though in practice, senators rarely fail to approve bills passed by the elected House of Commons. Many senators argue the chamber provides “sober second thought” by giving it another set of eyes from people who can have subject-matter expertise and who are not worried about facing re-election. Supporters argue that senators facing investigation and even charges – some for questionable expenses, a couple on other counts – shouldn’t cast a negative light on the chamber’s legislative role. Most polls suggest Canadians are not happy with the Senate the way it currently operates. In a [June EKOS poll](http://ipolitics.ca/2015/06/19/ekos-canadians-prefer-senate-reform-to-abolition/), just 11 per cent of respondents said the chamber should be left alone, while 45 per cent supported serious reform and 35 per cent said it should be abolished.

**Reform it**

Before becoming Prime Minister and in his early days in office, Stephen Harper suggested reform as the way to fix the Senate. In 2013, the Conservative government asked the Supreme Court for guidance on the constitutionality of certain reforms, such as term limits or electing senators. (Alberta currently holds elections for Senate nominees, who must still be appointed by the prime minister of the day.) The Supreme Court has said reforms would require the approval of at least seven provinces representing 50 per cent or more of Canada’s population. In 2014, Justin Trudeau kicked senators out of the Liberal Party’s national caucus and said that MPs would be working at arm’s-length from the Red Chamber from now on. Mr. Trudeau also said that, if he became prime minister, he would create a “non-partisan public process” to identify and appoint candidates for the Senate.

**Read The Globe’s previous coverage here:**

[‘Stuck with status quo’ on Senate, says Harper after court’s rejection](http://www.theglobeandmail.com/news/politics/senate-ruling/article18205700/)

[‘No consensus’ among provinces about reforming Senate: Harper](http://www.theglobeandmail.com/news/politics/no-consensus-among-provinces-about-reforming-senate-harper/article18209688/)

Read the Supreme Court of Canada’s [full decision here.](https://www.canlii.org/en/ca/scc/doc/2014/2014scc32/2014scc32.html?autocompleteStr=Reference%20re%20Senate%20Reform&autocompletePos=1)

**Get rid of it**

Abolition is the stated position of federal NDP Leader Thomas Mulcair and Saskatchewan Premier Brad Wall. It also may be the hardest to accomplish – the Supreme Court suggested abolishing the Senate would require the unanimous consent of every province.

Read The Globe’s previous coverage here:

[Where Ottawa and the provinces stand on Senate reform](http://www.theglobeandmail.com/news/politics/where-ottawa-and-the-provinces-stand-on-senate-reform/article15433168/)

And here are some of The Globe’s previous columns:

KEVIN PATTERSON: [Keep the Senate. Replace the Members.](http://www.theglobeandmail.com/globe-debate/keep-the-senate-replace-the-members/article25413911/)

JERRY DIAS: [Why do we cling to an outdated Senate that does the government’s bidding?](http://www.theglobeandmail.com/globe-debate/why-do-we-cling-to-an-outdated-senate-that-does-the-governments-bidding/article25235615/)

CLAUDIA CHWALISZ: [Replace this archaic institution with a citizens’ senate](http://www.theglobeandmail.com/globe-debate/replace-this-archaic-institution-with-a-citizens-senate/article24945037/)

HUGH SEGAL: [Four steps to deal with the Senate crisis](http://www.theglobeandmail.com/globe-debate/four-steps-to-deal-with-the-senate-crisis/article24925589/)

[macleans.ca](http://www.macleans.ca/author/macleans-ca/)

March 8, 2013 <http://www.macleans.ca/politics/why-the-senate-should-be-abolished/>

Let’s begin with a trivia question for constitutional experts: name all the federal states worldwide with a single, or unicameral, legislature.

It’s commonly held that federations—countries marked by overlapping powers of national and provincial or state governments—must have upper and lower houses in their legislatures to ensure effective regional representation and prevent power imbalances. And yet some federal states manage to govern without a second legislative body.

The answer to our question? United Arab Emirates, Venezuela, Micronesia, the Comoros Islands and St. Kitts and Nevis. Oh, and don’t forget Canada.

Canada does have a Senate, of course. And yet this is a distinction in name only. On a daily basis evidence piles up that reveals our upper house to be neither useful nor necessary. An incessant [string](http://www2.macleans.ca/2013/02/20/prince-edward-island-sen-mike-duffy-says-he-has-another-home-in-charlottetown/) of [scandals](http://www2.macleans.ca/2013/03/07/third-conservative-senator-refunds-expenses-but-senate-says-no-rules-broken/)and [disgraceful conduct](http://www2.macleans.ca/2013/02/08/senator-officialy-chaged-with-assault-sexual-assault/) by senators has turned the red chamber into a national embarrassment. Its functionality has been eroded to nothing with little prospect for change, despite claims from the Harper government to champion Senate reform.

While the Senate may have been a good—perhaps even critical—idea during the founding of Canada, today it serves no real purpose other than to bring itself into disrepute. From a practical perspective, Canada already has a unicameral legislature. Why not make it official?

During the Quebec Conference of 1864, which set out the future structure of Canada’s political system, John A. MacDonald, then attorney general and not yet a Sir, observed, “In order to protect local interest, and to prevent sectional jealousies, [Ontario, Quebec and the Maritimes] should be represented in the Upper House on the principle of equality.” In fact, the shape and power of the Senate was one of the main topics of consideration at Quebec City, occupying six of 14 days.

It now seems ludicrous to imagine the Senate should take up even an hour of serious discussion. Rather than a place for sober second thought or regional balance, the upper chamber has become a repository of political cronies, former media personalities and many other depressingly unserious characters.

Consider the legal troubles of Patrick Brazeau, recently charged with assault and sexual assault. Or the sad affair of recently resigned senator Joyce Fairbairn, declared legally incompetent as she dealt with Alzheimer’s disease but still allowed to vote. Or the ongoing residency and travel expense scandal in which various high-profile senators have had trouble identifying where they lived. Or the fraud conviction of former senator [Raymond Lavigne](http://www2.macleans.ca/2011/03/21/raymond-lavigne-quits-the-senate/). Or, or, or . . .

Of course the Senate has long had a reputation for cronyism. And it’s no stranger to impropriety. Witness the Beauharnois scandal during the 1930s, in which two Liberal senators personally benefited from the government’s construction of a hydro dam on the St. Lawrence River. Lately, however, the pace of scandal has picked up at the same time as the Senate has found itself with even less do to.

The dramatic centralization of power in Ottawa into the hands of the Prime Minister’s Office means the Senate can no longer play any significant role in the mechanics of Canada’s political system. Where it was once conceived as a forum for providing scrutiny and financial oversight of government business, the rise of public watchdogs such as the auditor general and the Parliamentary Budget Office has entirely supplanted this role. And the Senate’s lack of democratic legitimacy prevents it from pushing back against government initiatives in the name of regional fairness.

Added to all this is the popular perception, fuelled by the current expenses scandal, that senators seem to work their hardest when maximizing their take from the public purse; finding new and inventive ways to claim travel and living costs or otherwise skirting the rules.

Such a situation is troublingly ironic, given that Prime Minister Stephen Harper came to power in 2006 promising to make the Senate relevant and respectable again by ending political appointments and implementing a process to elect new senators.

Unfortunately, and despite the appointment of two elected senators from Alberta, Harper appears to have been seduced, as were all his predecessors, by the prospect of using the Senate to reward friends and consolidate his own political power. Where he once derided the Senate as a “dumping ground for the favoured cronies of the prime minister” Harper has thus far made senators out of a passel of failed Conservative candidates, several major party donors, his former communications adviser and various others who appear out of their depth, such as Brazeau and former newsman Mike Duffy.

Harper’s Senate Reform Act, introduced in 2011, proposed to appoint senators elected through provincial elections and limit terms to a non-renewable nine years. Both are sensible suggestions that would go a long way to repairing the Senate. Yet it was only last month, with the Senate rocked by a string of scandals, that Harper went to the trouble of asking the Supreme Court for an opinion on the obvious constitutional problems associated with his proposed changes. As *Maclean’s* Ottawa Editor John Geddes’s lengthy investigation into the practicality of Senate reform makes plain (see “ ‘Contempt for the whole institution,’ ”), Harper’s reforms will likely require the approval of seven provinces comprising at least half of Canada’s population. It’s a stiff requirement.

It is already the case, however, that provinces other than Alberta, notably New Brunswick, Saskatchewan and British Columbia, have already passed or are in the process of considering Senate election legislation. Nonetheless Harper continues to grind out appointed senators in these provinces rather than encouraging elections by offering to cover the costs. Two months ago, for example, Harper named Denise Batters, wife of deceased Conservative MP David Batters, as Saskatchewan’s newest senator. Adding a further dash of irony, Batters was chief of staff to the provincial justice minister when Saskatchewan’s Senate election bill was passed.

It’s hard to escape the feeling that Harper’s passion for Senate reform has been severely compromised by his seven years in power. This makes intuitive, if disappointing, sense. Regardless of any expressions of idealism when in opposition, what sitting prime minister would want to create a truly equal, elected and effective Senate that would have as its main purpose to counterbalance or limit his own powers? From this perspective, Senate reform may simply be an outsider’s preoccupation, doomed to be abandoned once power is achieved. If so, then real, constructive Senate reform is not just a remote prospect, but an absolute impossibility. Is there a way out of this trap of hypocrisy?

It’s worth noting that Harper’s court reference also puts forth the option of abolishing the Senate altogether. The Supreme Court has been asked to consider three possible methods of achieving this: inserting an end date, eliminating all mention of it from the Constitution or simply taking away its powers. It’s a strategy worth a serious look.

On paper, abolition appears as constitutionally difficult as reform. But at least it holds the promise of being attractive to the ruling party, since it does not entail any loss of political power. As such, it exists within the realm of possibility. And given the ongoing legacy of patronage, scandal and futility, getting rid of the Senate looks to be a better option than doing nothing at all.

# Shaking up the Senate

## Less partisanship, more independence, is healthy for our democracy.

Although not perfect, U of A experts say they generally like Prime Minister Justin Trudeau’s new-look Senate.

Prime Minister Justin Trudeau’s 21 new appointments to the Senate over the past two weeks may not be as independent as he claims, but they do reflect an improved chamber “for sober second thought” in the long run, say two U of A political observers.

Critics slammed Trudeau this week for appointing what they called “closeted Liberals” after he promised to appoint senators on merit rather than party affiliation.

In 2014 while he was in opposition, Trudeau declared all Liberal senators independent. After he was elected prime minister last fall, he introduced a new, non-partisan model to appoint senators. Earlier this year, the Liberal government set up an advisory board (which included former U of A President Indira Samarasekera) to submit recommendations for senate appointments to the prime minister based on merit-only criteria. The job of senator was thrown open to anyone who felt qualified to apply for the job.

After this week’s appointments, there are now 44 independent senators, the largest cohort in the Red Chamber.

“It’s clear these new senators have ties with the Liberals — not necessarily partisan ties, but with ideological, ‘small l’ liberalism,” said Frédéric Boily, who studies Canadian political ideologies at Campus Saint-Jean.

With backgrounds as academics and lawyers, many tend to lean left, he said. André Pratt, for example — former editor of La Presse appointed last Friday — has clearly adopted liberal positions in the past as a journalist, said Boily.

On the whole, however, Boily likes the new Senate model for its emphasis on the knowledge, experience and diversity of applicants as opposed to simply replicating the hyper-partisan divisions of the House of Commons.

Canada has come a long way since the Senate’s inception 150 years ago, he said, and definitions of diversity and representation have changed enormously.

“I was very surprised when Trudeau introduced it at first,” said Boily. “But in the long term it’s probably the most interesting solution for changing the dynamics of the senate — the CVs of these people are very good.”

Boily also prefers the independent Senate to an elected body that has been proposed by some. According to the constitution, the latter would require approval from all provinces and territories — an uphill battle if ever there was one.

“And remember, we’ve had Senate elections in Alberta, and people don’t seem to be all that interested.” Alberta is the only province to elect nominees for Senate appointments, which are not binding on the Prime Minister when he submits his choices to the Governor General.

One potential problem Boily does see with the new model, however, is elitism in its merit-based search for what it calls “highly qualified people.”

“It’s not just the simple Joe Canadian who can be appointed any more. And I think it’s important to have a balance between people with credentials and those who represent ordinary people.”

Eric Adams, a constitutional expert in the U of A’s law faculty, also favours the new senate so far, as long as senators don’t misinterpret their independence as license to defy Parliament.

In the past, party discipline has been useful in preventing senators from challenging the democratic will of the House of Commons, he argued. But it has also constrained them at times from expressing valid reservations.

“What’s the point of a Senate that simply re-creates the political wrangling and partisan jockeying of the House of Commons?” said Adams. “A Senate comprised of Senators exercising independent judgment free from constraints of party ideology and discipline can contribute meaningfully to ensuring our laws receive rigorous, objective, and thoughtful assessment and debate.

“The best Senate for Canadians will be one of independence, reflection and integrity, but also one which is prepared to defer to the House of Commons when push comes to shove,” he said.

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