

A New Approach to Senate Reform

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As one who spent six years as an Alberta senator-elect promoting incremental, election-driven reform, I agree with a growing number of reformers that it's time to discontinue this strategy of the past generation. I say this partly because the incremental approach has not worked, and partly because we might not like what we get if it ever does.

While this does not mean Alberta should stop electing senators, it means we should shift our emphasis. We must return to the “complete package” approach of the 1980s that ended with the collapse of the Charlottetown Accord in 1992. Of course, that was then and this is now. Two decades later there may be more political courage and perceived need to – gingerly – “reopen” the Constitution, if the proposals are modest and there is genuine hope of success.

Looking back to the West's focus on Senate reform in early '80s, it seems to me that our biggest mistake was to insist upon equal numerical provincial representation. That demand sent the entire discussion in a winners-and-losers direction from which it has never escaped.

We did this because we thought (correctly or not) that equality would be to the West's advantage, and rationalized this position for national purposes with the debatable assertion that what is good for the West is good for Canada. This had some appeal in the Atlantic but none in Ontario and Quebec, where most Canadians live and which would drastically lose power with effective provincial Senate equality. So despite skilled and determined promotion it didn't sell.

It has since occurred to me, and perhaps to others, that governing institutions such as cabinets and Parliaments – absent armed revolution and constitutional rupture –

are based on and draw their authority from past practice and history, and can't really be based on anything else – certainly not mere idealistic theory. Power is never given away easily, it is taken. For this reason the idea of effective provincial equality in the Senate (from central Canada's perspective) is a non-starter, always was, and always will be unless we westerners are willing to separate over it, which we clearly are not.

It is often argued that even if provincial equality is never accepted, it is a good starting point for negotiation, an opening demand. Well, not being much of a negotiator myself I wouldn't know, though I frankly doubt it, because it divorces Senate reform from history and past practice. Besides, what surely matters more at this stage of the discussion is for reformers to determine what's actually possible, and, once we've decided that, to decide whether such reform is sufficient. Realistically, and clearing our minds of past dreams and delusions, what could and should a reformed *Canadian* Senate look like?

Where I would like to see it end up – given the limitations of the options – is with a provincially elected Senate of 111 members comprising 24 each from Ontario and Quebec (as at present), 30 from the four Atlantic provinces (as at present), and 30 (six more) from the four provinces of the West – plus one each for the three federal territories (as at present). The rationale being:

1. Canada's founding Senate principle in 1864 (the Quebec Conference) was explicitly NOT provincial equality, but equitable regional balance.
2. There was from pre-confederation days the acceptance of a slight advantage to the Atlantic in the event Newfoundland joined. This is defensible, because Ontario and Quebec are single-province Senate divisions, and the Atlantic region is multi-province, which weakens it politically and requires a concession. I stress, this was the Original Deal, and it still matters today. It matters immensely. For on this basis the West is not demanding something new in asking for six more seats, we are merely insisting upon a founding principle of Confederation.

3. Though the West in 1864 was still busy hunting buffalo, it was understood in the East that we would in due course comprise a fourth regional Division in the Senate. For this reason we were given (eventually) 24 senators (six per province). However, because we are a multi-province division, we should have 30 like the Atlantic. How we divide these extra six seats should be settled internally within the region.

This arrangement, if achieved, would (a) respect the original principle, (b) furnish approximately equal representation on entitlement issues between productive Canada west of the Ottawa River, and net-consuming Canada east of it, as well as (c) approximately equal representation between resource and non-resource regions.

Something we reformers too often forget is that actual, live senators do not always think or vote according to regional-interest norms and expectations, so there is no point devising a perfect numeric system of balance. It can and should fairly reflect past practice and established principle. It can rarely do more, and no, *there can and should be no guaranteed outcomes for anyone.*

I think this practical and equitable balancing of interests is essential to any progress, because it gives all four major regions reassurance that they can be represented effectively, and that any significant changes to our federal system will come from persuasion and negotiation rather than brute coercion.

Quebec on this basis will retain 22% of Upper House seats in perpetuity – equal to its present *but declining* share of national population. Instead of indulging its inevitable demand for more Senate seats, which if conceded would offend the principle of equitable regional balance as historically established, we should consider a double-majority concession on federal French language issues.

Numerous practical questions arise from this proposal, as from any other – how would a double majority work, how would such a regionally equitable Senate be provincially elected, would its veto power be curtailed, etc.?

Before addressing any of these, however, I suggest we first decide – on principle – if the Senate representation as I've described it here is something all regions might embrace for the good of Canada.

I believe they could and should – and that from this starting point a new package deal could be constructed.