Speaking Notes for Scott Hennig, VP, Communications
October 31, 2013
Manning Symposium on the Senate

- Good morning.

- Thank you for that introduction Minister Dallas and thank you Dr. Morton for inviting me to be here this morning. I have the job of making the case for Senate abolition. And boy, that job just keeps getting easier and easier every day.

- In fact, I'm guessing there are quite a few delegates at the Conservative convention this weekend wishing the Senate had been abolished somewhere around 2008.

- But I'm not going to take the easy route today and talk about the current Senate expense scandal as a reason for abolishing the Senate. Oh, and to be clear, it's not that I or the Canadian Taxpayers Federation are above making that case.

- We're definitely **not** above using a scandal to push a policy reform. In fact, it's what we do best. And we've already used the Senate scandal as the launch of our call for a national referendum on abolishing the Senate.

- But. If Canadians are going to choose to abolish the Senate it should be for reasons larger than Mike Duffy.

- And I'm not going to guess at what the Supreme Court is going to tell us, about if, and how, the Senate can be abolished, other than to say that regardless of the

mechanism suggested by the Supreme Court, we believe any move to abolish

needs to be explicitly made by Canadians in a referendum, even if non-binding.

- So, I'm going to tackle this from two standpoints, first from a practical one… why abolishing the Senate is a better option than the one currently proposed by the government. And secondly, from a philosophical standpoint, vis-à-vis some of the more popular reform options out there, why Senate abolition is the best one.

- Before I get into beating up on the reforms pushed by the Harper government, I think it's important to defend how we got to where we are today, and to defend the government for selecting this package of reforms.

- Make no mistake, never have we had a Prime Minister so dedicated to reforming the Senate than we have with Stephen Harper.

- Recall that this is the Prime Minister who for nearly three years refused to fill vacancies in the Senate, other than Michael Fortier and Bert Brown.

- Three years! Paul Martin appointed 17 Senators in his two years, John Turner appointed 3 Senators in his two-and-a-half months on the job. Joe Clark appointed 11 during his 9 months as PM, Arthur Meighen appointed 15 during his year and nine months as PM, spread over two stints. Even Charles Tupper managed to appoint one Senator during his 69 day reign.

- Most Prime Ministers jump at the opportunity to fill every vacancy in the upper chamber.

- And it's not like Stephen Harper was waiting until the end of his term to make the appointments, he had a minority government that could fall at any time, and in fact did fall in late 2008. Had Stephane Dion won that election, Stephen Harper would have gone into the history books having only appointed two Senators.

- And he only started appointing Senators when it became clear that the Liberal dominated majority in the Senate would continue to block crime bills as well as Senate reform legislation.

- As for deciding that the reform his government would pursue to adopt a provincial nomination system and term limits, those were partially decided before his time as PM, and done so in this province.

- When Alberta Premier Don Getty held the first provincial nomination election for senator in 1989, he created that as a serious Senate reform option that did not involve opening up the constitution. This was of course, replicated in 1998, 2004 and 2012.

- The Harper government has simply adopted the already-used option of provincial nominations as their policy. They didn't come up with the idea, it was a long-held practice by the time they got into office.

- And it was a policy that I supported, at first strongly and then less so, and now, not at all.

- In fact, it was a policy that many CTF supporters supported for many years. But times have changed. Views have changed and it's time for the government to abandon this policy like so many former supporters of it have already.

- In 1998, CTF supporters were surveyed on their opinions of the Senate. 46% wanted it elected, 45% wanted it abolished and 6% wanted it appointed from provincially selected lists. This result would explain the position we long held of "elect or abolish the Senate."

- In June of this year, the CTF asked this question again. An astonishing 7,600 supporters responded to this survey. 65% now want the Senate abolished, with only 33% favouring electing Senators. 82% supported a national referendum on abolishing the Senate. This result now explains why we favour abolition and why we're calling for a referendum.

- But why do Canadians feel this way?

- Like many Albertans I was once a fan of the triple-E Senate. Equal, Elected and Effective. Had I been old enough in 1992, I might have even voted for the very flawed Charlottetown Accord, just to achieve some of the goals around a triple-E Senate.

- That is also why I was a proponent of the provincial elections to nominate Senators in Alberta in 1998, 2004 and again in 2012… although only barely in 2012.

- I thought, much like the current government thinks, if we can start to make baby steps, even by electing a few Senators, the ball will be rolling on transforming the Senate.

- Unfortunately, I think I was correct.

- I believe that the addition of elected Senators has started the creeping legitimacy of the Senate and of *all* of the Senators, both elected and appointed.

- Betty Unger, Doug Black and Scott Tannas are legitimate, elected Senators. And rightfully… rightfully, they should act as elected officials.

- They should care about the views of their electors, attempt to represent the interests of their province and the people who sent them to Ottawa, and vote based on the best interests of their constituents, and because they're with the government caucus, in support of government bills.

- If this means voting for or against a bill, or proposing amendments to legislation passed by the House of Commons, they have the moral legitimacy to do so as elected officials.

- However, the other 103 Senators (or 96 as it is right now) are not. They are appointed. They have no mandate from Canadians. They have no right or legitimacy granted by electors to over-rule the decisions of the House of Commons.

- Now, this is not to say that appointed Senators aren't good people with good ideas who could make laws better. But traditionally they haven't. Traditionally, the Senate has been a rubber-stamp of decisions of the House of Commons.

- Sure, there are notable exceptions to this, such as rejecting the creation of the Old Age Pension Bill in 1926.

- I would argue that the creeping legitimacy of the Senate has begun and it was demonstrated this past summer with the Senate's gutting of Bill C-377.

- Bill C-377, a private members bill from Conservative MP Russ Hiebert was passed by the House of Commons this past year. It made its way to the Senate, as all bills do, where it was amended by Senator Hugh Segal with the support of a handful of Liberal and Conservative Senators.

- Regardless of whether you support or oppose C-377, which is a bill to force unions to disclose their finances publicly, is secondary. So too is whether Hugh Segal's amendments (which I frankly found amusingly clever) were appropriate. Neither is the point.

- The point is that a group of 99 Senators, only three of which have any mandate from Canadians gutted a bill that had been duly passed by the democratically elected House of Commons.

- Now perhaps this is just another one-off. Much like the four bills that were amended or rejected by the Senate in the 1990s, but I somehow doubt it.

- Hugh Segal, the architect behind the bill's amendments has been pushing for Senate reform since he was appointed to the Senate in 2005 by Paul Martin.

- He claims that the Senate has a "legitimacy deficit" and that it is this lack of legitimacy that keeps Senators from flexing their parliamentary muscles. In other words, Senators know that Canadians won't stand for an unaccountable, unelected group of landowners overruling the elected House on a regular basis.

- But thankful for him, it's no longer completely unelected. It started with one and it's grown to three, fully elected, fully legitimate Senators.

- And what that has done, psychologically, to the other Senators is begin to legitimize all of them.

- To his credit, like the Canadian Taxpayers Federation, Segal favours a national referendum on abolishing the Senate. However, whereas we would campaign on the yes side to abolish, he would campaign on the no side, believing that a strong no vote would give him all the legitimacy he needs to pass laws, gut laws passed by the house and spend money.

- But even without a referendum on the Senate, the creeping legitimacy of the Senate will continue as long as the current path of reform is pursued.

- I can imagine a Senate 20 years from now with, at most, 10 elected Senators, but with 105 Senators all believing they have the right to make or change the laws of Canada.

- To me, that is a scary thought, especially if you live in Alberta or BC.

- The Senate was designed to create regional balance, rather than provincial balance. Quebec gets 24 Senators, Ontario gets 24 Senators, the Maritimes gets 24 Senators, although Newfoundland also gets an additional six. And lastly, Western Canada gets 24 Senators, with each province getting six.

- This means that the four Atlantic provinces have 30 Senators for a mere 2.3 million Canadians. Meanwhile, BC with 4.7 million Canadians only has 6 Senators. Alberta with its 4 million Canadians only has 6 Senators.

- Between the four Atlantic provinces and Quebec, they have 10.4 million Canadians, 30% of the population, but 54 of the 105 Senate Seats.

- These five provinces representing less than a third of the country could control every vote of the Senate, overruling Ontario and all of the West.

- This might be fine if we, collectively, had agreed to a triple-E model, where every province got an equal number of elected Senate seats, much like the US Senate, but the creeping legitimacy in the Senate will only ensure that 54 unelected Senators from Quebec and Atlantic Canada will get to decide how the country is governed.

- To me that is a problem. I would rather rewind to 2006 where every Senator was appointed, where every Senator knew they lacked legitimacy to change laws, and where they only exercised their powers on extreme rare occasion.

- At least that way we knew that the laws of the land would be made by the MPs we had the opportunity to elect. And where we knew that if Alberta had 11% of

the population, Albertans would have almost 11% of the seats in the House of Commons.

- So if not the current set of reforms, why abolition over other reforms like a triple-E Senate, or a meritocracy?

- For one, practicality.

- I love the supporters of the CTF. When we sent out that survey in June we got 7,600 completed, but I also got over a hundred emails. The emails ranged from expressing support for one of the positions to pitching every variation on Senate reform you could imagine.

- A few wanted premiers to appoint Senators. Some wanted all-party committees to vet Senators. A couple wanted a proportional system. Some wanted to reduce the number of MPs and Senators. Some wanted equality by province, others by region. Some wanted all parties to be dropped and only independents be able to run for Senate elections. I heard them all.

- That along with the failure of both Charlottetown and Meech Lake, convinced me that getting everyone to agree on the **correct** reform was going to be nearly impossible.

- Further, the more complicated the reform, the more likely provincial horse-trading and tinkering will ruin any chance for improving the system. Abolition has the best chance of passing and getting us through opening the constitution unscathed.

- But that's not the only reason why abolition is the best option.

- Some of the other popular options fail on too many grounds. As for Triple-E, the idea of it being equal by province has always been attractive if you live anywhere outside of Ontario or Quebec. If it's equal by region, that would be a large step up from the current system that gives Quebec twice as many Senators as BC and Alberta have combined (despite having the same population), but only if the west and the prairies are given their own separate regions.

- But if we're largely trying to reflect an equal representation by population, like the House of Commons has, rather than declaring every province equal as they do in the US, what's the point, other than simply having an extra house?

- Some, like Conrad Black, have pushed the meritocracy idea – that we should simply appoint better people.

- I have no doubt that every Prime Minister has felt they were putting good people into the Senate. Some sort of all-party body to pick new Senators might mean that only those who have political views that are not offensive to anyone would get selected. Or parties would just make side deals to get their own partisans in the Senate.

- If the former, I'm not sure Canada would be well-served by having a chamber full of people debating and making laws, that have avoided ever taking a stance on anything or seriously debating policy in the past. Because those are the only ones who would get the approval of all-party committees.

- Some CTF supporters recommended we go back and consider what our founding fathers had in mind when creating the Senate. The suggestion was that we should attempt to get back to their original vision.

- Our founding fathers were not convinced that the great experiment that is democracy was necessarily in the best interest of our nation.

- Our first Prime Minister, Sir John A. MacDonald, had been influenced by the U.S. Civil war that was happening at the time just before the birth of Canada, and felt that it had been the "inevitable bloody outcome of mob rule and presidential despotism."

- He further felt that American-style democracy had to be tempered, as we couldn't have 'the unreasoning masses' deciding all things.

- And that is precisely why the Senate was not only an appointed body – to allow the Prime Minister to hand-pick some of Canada's upper crust to help him govern – but he also insisted that Senators must be at least 30 years old and hold $4,000 worth of property, free and clear.

- To quote John A. from 1865: "A large qualification should be necessary for membership in the Upper House, in order to represent the principle of property."

- He continued "The rights of the minority must be protected, and the rich are always fewer in number than the poor."

- So, if we were to go back to that original intent, we'd obviously have to increase the age at which one would qualify. Life expectancy at birth in 1871 in Canada

for a male was less than 60 years old. Today it's 81 years old. So, we'd have to raise the age of eligibility to at least 40.

- Which interestingly, would have made Patrick Brazeau ineligible for appointment… which I hesitate to mention, lest I convince you of the merits of this plan…

- Further, the requirement to own free and clear $4,000 worth of land in 1867 would result in likely $150,000 in today's dollars. And to be clear, that's net of what you owe the bank on your mortgage.

- While support for maintaining an appointed Senate is waning in Canada, you'd be even harder pressed to convince Canadians of moving up the age of eligibility and the land owning requirements.

- This is to say that I think our founding fathers had it wrong.

- So, if not the government reforms and not any of the other main reforms, why abolition? Fundamentally, do we need a body of sober-second thought?

- As a fan of limited government, I'm moved by the idea that an active upper house might slow legislation, cause problems, stop new laws from getting on the books and generally force the government to do less.

- But if the US or even the minority governments in the House of Commons experienced from 2006 through 2011 are any example, the exact opposite will occur.

- Pork barrel spending is routinely added as a rider to bills in the US in order to gain support of both houses, driving up spending and waste.

- And in Canada, deals must be struck with opposition parties in order to keep minority governments from falling.

- My friend and former colleague John Williamson, who is now a Conservative MP from New Brunswick, told me in 2010 while he was working as the PM's Director of Communications, that if we ever wanted to see a balanced budget again in Canada, we'd better hope for a majority government in the next election.

- He said: "It doesn't matter if it's a Conservative or Liberal minority government, if we keep getting minorities you will never see the budget balanced."

- And I think he was right. The pressure to go into deficit and stay there came from an opposition coalition attempt. I'm not absolving this government from its embarrassing embracement of auto bailouts, deficits dressed as stimulus or the growth of the civil service, but the deal-making that is necessary under a minority government has undoubtedly increased the size of government.

- While we might find the idea of blocking bad Liberal bills from becoming law with a Conservative dominated Senate, comforting, we might not be as happy with good Conservative bills being blocked by a Liberal dominated Senate. Nor will we be happy with having the budget bill amended to add money for Senatorial pet projects.

- So, what would it be like without a Senate?

- Arguably, with the extreme rare exception, for the past 146 years, the Senate has just rubber stamped the House of Commons decisions. So, we kind of already know what it would be like if we didn't have a Senate.

- I find it amusing that so many people think we need a second house, an upper chamber in Ottawa only. We don't have a second house in any of the provincial legislatures any more. We don't have a second city council.

- Newfoundland had a "Legislative Council" before joining Canada, as did Ontario when it was Upper Canada. Manitoba had a second house until it was abolished in 1876. New Brunswick abolished its Senate in 1892, PEI in 1893 and Nova Scotia in 1928. Quebec was the last hold-out and they eliminated their Senate in 1968.

- No province that abolished their Senate has fallen into the hands of a tin-pot dictator. None have declared marshal law and ordered the provincial police to seize control. And none have gone back and started up a new Senate.

- Worry that we will either be poorly governed or that there won't be proper oversight is fair, but it's just as fair in the current House of Commons as it is in every provincial legislature or every city hall.

- We seem to be managing those risks well at every other level of government, why not in Ottawa?

- In closing, I will leave you with this: just over a month ago Stephen Harper said "Our preference has been reform and we look at abolition if reform is not possible."

- Reform is possible, but it's not reform for the better, it's reform for the worse. So, I humbly submit that Stephen Harper and the Conservatives, Senate scandals aside, would be well served to follow the lead of groups like the Canadian Taxpayers Federation, Saskatchewan Premier Brad Wall and others who have shifted their views and now believe that Senate abolition is the best option for Canada.

- Thank you.