

My perspective, analysis and some suggestions on the Senate modernization process
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“The government continues to believe the status quo in the Senate of Canada is unacceptable. The Senate must be reformed or, as with its provincial counterparts, vanish.”

This background paper aims to discern a path to modernize the Upper House into an institution that meets the preferences expressed by Canadians without having to engage in painful constitutional debates. It identifies, what I consider to be, the most important reforms that have occurred since 2015 and those that need to be undertaken in the near future.

The Senate of Canada has gone through several crises since 1867 and has seen many attempts to reform, and sometimes very ambitious ones. The latest was undoubtedly Prime Minister Stephen Harper's Bill C-7, a reform bill tabled in 2011 entitled *An Act respecting the selection of senators and amending the Constitution Act, 1867 in respect of Senate term limits*. The bill intended to use a provincial or municipal electoral process for the selection of candidates for appointment to the Senate.

Before moving forward with this bill, the Prime Minister has been obliged by the Quebec Government to seek the opinion of the Supreme Court which issued its decision in April 2014. In its decision, the Court took the opportunity to elaborate on the role and powers of the Senate of Canada while it invalidated Bill C-7 for being unconstitutional.

It should be noted that in early 2013, when the government wanted to modernize the Senate of Canada, the latter was also going through one of the worst crises of legitimacy in its existence. The journalists referred to it as the “Senate expenses scandal” that resulted in a very sophisticated and expensive audit exercise. Some senators resigned from the Senate, others defended their cause publicly or before the arbitrator and former Supreme Court Justice Ian Binnie. Particularly significant charges were laid against a Senator who was subsequently found not guilty. The comprehensive decision rendered by Justice Vaillancourt showed that the Senate was under the unofficial control of the Prime Minister's Office at the time.

These events were difficult for the Senate and it led several senators at the time, some of whom are still present in this Upper House, to debate in the Senate and elsewhere to attempt to modernize the Senate from within for the nth time in order to meet Canadians’ expectations.

The following remarks are the result of my research and experience: first, as a member of the Conservative caucus, then as the Legislative Coordinator to the Government Representative in the Senate and, now, as a member of the Independent Senators Group. They follow the format of conferences I regularly give about the Senate. May they inspire new ideas and a fruitful collaborative approach.

One final note: my work in the Senate has been marked by several episodes of frustration. It led me to hope that senators would take bold steps to put an end to delaying tactics and to all forms of systematic opposition. However, over time, as the frustration subsided, I came to believe that the modernization of the Senate could not take place without consensus and that it is an ongoing and dynamic process. All honourable senators of goodwill must work together to ensure that Canadians have confidence in their Senate.

1. Bicameralism is still vivid the 21st century

The Senate is a parliamentary institution that has existed for centuries. One needs only to recall the existence of the Roman Senate. The House of Lords in the United Kingdom dates back to the 14th century, the US Senate was created in the 18th century and many European countries established an upper house in the 19th century. The mandate of these parliamentary institutions is to balance the exercise of power and prevent possible abuses by governments in power. In Canada, as well as in other federations, the Senate ensures the protection of regional interests in the federal legislation and those of minorities, as well as ensuring that governments, elected by part of the population, work for the benefit of the whole.

Some unitary states (ex. Scandinavian countries) have abolished the upper house and replaced it with a system of proportional representation. However, many new countries have instituted an upper house and enshrined it in their constitution. Moreover, all the federations in the world, except Micronesia and the United Arab Emirates, have an upper house.

When we look at the evolution of Senates around the world, it can be argued that such an institution is still very alive today. (see Appendix A).

An examination of Senates around the world shows that they are neither a committee of experts nor a council of wise men and women. Senates are a fundamental political institution that seek to balance the exercise of power and protect democracy. They are generally structured into political affinity groups (often according to political parties).

2. Senates in the world exercise a role of sober second thought

An upper house has the mandate to review legislation passed in the lower house. This is the duty of sober second thought. As I stated above, in doing so, they ensure that regional interests and minorities are protected. This role of protecting minorities is increasingly important as the populations of states are becoming more and more diverse.

In addition, most Senates in the world have the power to initiate bills. In Canada, this power vested in individual parliamentarians is limited to bills with no financial implications.

In short, the role of the Senate of Canada is like that of other countries. It is, however, distinguished by its institutional characteristics.

3. However the Senate of Canada is unique

Most senators around the world are elected by universal suffrage, by an electoral college or a mixed process. There are 17 Senates in the world where senators are appointed. In 15 of these countries, senators are appointed for terms of approximately five years. Only in Canada and in the United Kingdom are senators appointed for an unlimited period of time (until 75 years old or for life). (see Appendix B.)

Secondly, most Senates in the world are constituted of more than two groups or caucuses. In Canada, until very recently, the Senate consisted of only two caucuses. One of them always held the majority. This is also the case in the United States, but it is an elected Chamber. The House of Lords is composed of several groups. Therefore, among appointed Chambers with an unlimited mandate, the Senate of Canada is unique.

Also, the Canadian Senate unlike most of the world's Senates, has a veto power over bills. Not all upper houses have veto power. The majority have a suspensive veto power. (see Appendices C, D.)

4. Why is the Senate of Canada unloved by Canadians?

As was said previously, the history of the Senate of Canada has been marked by several crises of confidence. This has also been the case in other countries. These crises have often given rise to public debates calling for reforms of the Senate or even its abolition. However, contrary to other Senates in the world, the Canadian Senate has seen few reforms since its creation. Major attempts involving constitutional changes have failed in the past.

During these crises, we hear the same criticisms regularly: the Senate is useless because it rubber-stamp government bills; it is a partisan institution; Senators are appointed less for their competency and more as a reward for political service rendered; Senators benefit from a system that costs taxpayers a lot of money and are not accountable to Canadians; all in all, it is an elitist and undemocratic institution because Senators are not elected.

As I mentioned in my introduction, there was a lot of press coverage, in 2013, of the Senate expenses scandal. This crisis highlighted the stronghold of the then Prime Minister's Office (PMO) on the Senate of Canada. In April 2016, Justice Vaillancourt correctly described the PMO's actions that aimed to control the offices and decisions of Senators. In fact, at that time, it could be argued that the Senate was in some way abolished because it was under the control of the PMO. Many bills were passed using a time allocation motion. Perhaps, this was the real scandal?

5. What are the basic expectations of Canadians for their Upper House?

Looking at the regular criticism of the public, one can say that Canadians want at least:

- A non-partisan Upper House;
- Independent and responsible senators;
- An efficient institution;
- A Senate accountable to taxpayers regarding their expenditures and decisions;
- And a relevant Upper House that reflects and investigates on Canadians concerns.

6. What is a non-partisan Senate?

The short answer to this question is the following: A Senate is non-partisan when the groups composing the Senate don't have any direct ties with an official political party.

Groups or caucus that are partisan are primarily driven by the interests of their political parties. Therefore, in a partisan Senate, it is often the ideologies and strategies of political parties to gain or retain power that dictate the conduct of senators. A partisan caucus forgets sometime that senators are appointed to pursue the common interest.

It goes without saying that the legitimacy of the Senate is weakened when the population believes that the Senate's activities are primarily dictated by partisan strategies.

Several institutional changes can be introduced to reduce the influence of political parties on the Senate's decisions and positions without changing the Constitution.

First, I would say cutting ties with partisan caucuses. There have been moments in the history of the Senate when recognized groups did not participate in national caucuses. In 2014, the Liberal Party excluded Liberal senators from the national caucus. Currently, most senators no longer participate in a partisan caucus. Of the four officially recognized groups, only the Conservative senators' caucus engages in national caucuses and their partisan activities.

If Senate groups must cut ties with political parties, what about individual senators? Can they be members of a political party and participate in activities? Would preventing them from doing so be an infringement of their fundamental freedoms? These questions remain to be discussed in a more extensive discussion.

Second, a more transparent selection process of candidates for appointment to the Senate is another element. Certain processes are more likely to favour the appointment of partisan senators. An opaque and non-transparent selection process allows for the rewarding of individuals who have contributed to the party's victory in one way or another. This, of course, undermines the legitimacy of the institution.

The selection process put in place in 2015 was intended to make the process more transparent. It bears similarities to the selection process for appointment to the British House of Lords adopted in

2000 and regulated by the creation of the House of Lords Appointments Commission. It would be desirable to do the same for the selection process for Canadian senators in order to strengthen the credibility of such a process.

Third, it is important to end forever the duopoly that the Canadian Senate has experienced since its creation. To this effect, it is desirable that no group or caucus holds the absolute majority of the votes in the Upper House.

The Senate of Canada was bipartisan from 1867 to 2015. Throughout this period, the political game has been for the Prime Minister of the day to seek a majority of votes in both chambers. A Senate composed of more than two groups non-affiliated to a political party in the Lower House is necessary. Not only does this allow the Senate to better represent the population, but it makes it more difficult for a group or caucus to obtain the majority. It also contributes to dialogue and consensus building, whereas, in contrast, an absolute majority held by one group may favour authoritarian actions.

It is also desirable that groups be equal not only according to the rules, but ideally according to size as well.

Those institutional characteristics would therefore encourage dialogue between all groups instead of confrontation.

Unfortunately, many rules in the Senate are still based on the existence of a duopoly. The rules need to be changed to acknowledge equality between recognized groups and to encourage dialogue and compromise in the use of procedure.

I also suggest adopting recommendations 5 and 6 of the first report on modernization of the Senate entitled, *Moving forward*. It concerns the election of the Speaker pro tempore by all senators instead of by the biggest group. There is a motion to this effect on the order paper proposed by Senator Dalphond.

Finally, I suggest adopting recommendations 18,19 and 20 of the same report concerning the question period (QP). The actual question period is a show in partisanship. It has no place in the Upper Chamber. These recommendations would formalize the current practice of inviting government ministers to appear in the Upper Chamber for QP. It would also allow the Senate to invite senior public servants for QP and to limit the questioning to two days per week.

7. An independent Senate is more than a non-partisan Senate

An independent Senate is a broader concept than a non-partisan Senate. A non-partisan Senate promotes the development of an independent Senate. However, the goal of an independent Senate is more demanding. The non-partisanship of groups is a necessary, but not a sufficient condition.

During the last crisis of confidence in the Senate, the independence of the latter meant no influence on its decisions from the Prime Minister's Office (PMO). In short, a Senate was considered independent when its actions were not dictated by the government in power or the PMO.

More recently, with the arrival of a significant number of new senators, many have come to believe that the Senate is independent when its members act according to their own preferences, beliefs or wishes. This view must be nuanced. It is not clear that this is what Canadians want from the Senate. In fact, in the context of decisions made by an upper chamber, there is a difference between specific decisions made without political and partisan pressure and those solely based on individual preferences.

To explain this difference, let us take the example of a judge who must render a decision on a court case. A judge would not be independent if his or her decisions were dictated by higher authorities, and society would criticize the judge for his or her non-independent behaviour. The public would also criticize the judge if he or she ignores collective preferences. Society expects a judge to make an impartial decision based on law and public values.

This parallel applies to Senate decisions. Canadians want an independent Senate that makes decisions based on law and not dictated by the government in power as well as decisions based on collective values and preferences. Canadians want the Senate to protect the interests of regions and minorities in federal legislation and to ensure that the latter addresses the well-being of all Canadians. They want a Senate that is complementary to the House of Commons and aware of public opinion. They want the Senate to make amendments when necessary to improve bills, but at the same time to respect elected representatives and public opinion.

The legitimacy of the Senate in the eyes of the public rests on this delicate balance between the exercise of its amending powers and the respect for the elected house, between the expression of individual preferences and that of public preferences.

8. Changes promoting the independence of the Senate

One of the first steps taken by the Liberal government to demonstrate its willingness to reform the Senate was to abolish the government caucus, the position of Government Leader in the Senate, and replace it with the position of Government Representative in the Senate (GRS). Throughout the 42nd Parliament and even today, the business of the government is “shepherded” for study, analysis and voting in the Senate through the GRS team. The GRS acts as the link between the two Houses of Parliament. Throughout this Parliament, no Government Whip forced a senator to vote in a partisan manner, the position of Whip having been replaced by the position of Government Liaison.

Is this new structure here to stay? It would not be surprising if, should a Conservative government come to power, that the Senate would revert to the old model as the Conservatives might prefer a constitutional reform of the Senate. It could then reintroduce the government caucus, the Government Leader in the Senate as well as the Whip that ensures that the members of the caucus follow the party line.

However, if the current structure remains in place, it may not be sufficient to allow senators to carry out their constitutional role independently.

The recent experience of the Senate leads me to believe that the existence of the GRS team, while it promotes the independence of the Senate, is not a sufficient condition.

Indeed, the independence of the Senate is also based on the principle of equality among senators. This is very important. How can we ensure an independent behaviour on the part of senators when they do not have the same rights? How can we ensure independent decisions when rights are linked to belonging to a group and not simply to being a senator? In the past, partisan caucuses have used committee positions, key positions, offices, and travel opportunities to strongly encourage senators to follow the party line. This system of reward and punishment must end. All senators must be treated equally, regardless of their affiliation to a group. After all, as I previously stated in a speech and as others have said: A senator, is a senator, is a senator.

All senators must benefit from the necessary conditions to accomplish their constitutional mandate. One of these is those conditions is the possibility to sit and vote in a committee without being obliged to follow a group or party line. Therefore, the selection process for a committee's membership must be revised. It cannot be subject to a group or caucus. In order to maintain the independence of the Senate, all senators must be treated equally through a fair and equitable process.

The current process reflects the practices of a partisan Senate. However, at the moment most senators are nonpartisan and independent from the authority of a Whip. As a result, it is an imperative time to review, the selection process for allocating committee seats.

The selection process of committee's membership must respect basic criteria such as preferences, qualifications, regional affiliation, gender, race and other criteria to be decided upon. All senators must have an equally comparable task. According to my experience, I think that in order to accomplish a decent job, each senator must not have to sit more than 9 hours per week in committee (an equivalent of two committees).

An informal committee composed of the nonpartisan members of the selection committee could supervise the selection process among nonpartisan senators. The principle of proportionality could be used to determine the number of seats to be filled by nonpartisan senators and those for the conservative caucus. The same principle could apply for the number of Chairs and Vice-Chairs. Nonpartisan members of the selection committee could ensure a transparent process and facilitate arbitration when expressed preferences do not coincide with availability of seats. Similarly, the Chairs and Vice-Chairs allotted for nonpartisan senators could be elected among the nonpartisan committee members.

The provision of monetary allowances for those that hold the positions of Chairs and Vice-Chairs might not facilitate the adoption of a new practice. This is why I think it is important that we consider abolishing the allowances introduced in 2003. If they did not exist for more than 100 years, why bother about them now? The money saved could be used more productively.

In short, the independence of the Senate is also an institutional issue. The changes stated above reinforce this principle of independence in practice and hopefully, within the rules. To remain independent, senators must be able to exercise their constitutional responsibility in an environment that recognizes *de facto* equality among them. Thus, it would be easier to reject the criticism that the Senate merely rubber stamps bills from the other house when its decisions are made by non-partisan and institutionally equal senators.

9. Can the number of proposed and accepted amendments by the Senate be a measure of the degree of independence of the Senate?

For many, an independent Senate is also measured by the number of amendments proposed to bills and adopted by Parliament. This is surely an indicator of the Senate's ability to add value to bills that are sometimes passed quickly in the Lower House.

However, we must not think that an independent Senate is equivalent to systematic opposition. The Senate is a complementary political body to the House of Commons. An independent Senate makes it possible to protect minorities, the interests of regions and to improve bills. As long as the underlying principles of a bill are acceptable and deemed constitutional, the Senate may propose amendments without attacking the principles of the bill. The Senate was not created to replace the executive branch. It may be composed of recognized experts in various fields, but that does not allow it to govern in the place of the party in power. That is why amendments proposed by senators may very well be rejected by the government. Members of the Senate should not be offended by such a decision. The act of sober second thought is different from the exercise of executive power. The Senate may indicate preferable legislative paths, but it must be careful in exercising its veto power.

It is in this spirit that in 2014, I started to analyze the bills introduced in the Senate through the lenses of a list of basic questions. In 2016, I proposed the adoption of a motion (Motion 89 – 42nd Parliament) to amend the rules to require that observations shall be annexed to each report on the study of a bill that succinctly answer a list of fundamental questions: does the bill respect the Constitution, the Charter of Rights and Freedoms, international agreements and national treaties? What are the regional impacts? What are the impacts on genders and race? What amendments, if any, did the committee reject? Which testimonies were heard and were any more critical than others? I think answers to these questions would give more weight to any proposed amendment the Senate would choose to make than our personal preferences.

I am not alone to suggest that such an addition to the procedure could be useful. Dr. Gary O'Brien, former Deputy Clerk and Principal Clerk of the Senate, proposed a similar approach in his testimony before the Special Committee on Senate Modernization and other experts have proposed similar ideas.

10. Why are Senates in the world organized in groups of senators?

As I previously mentioned in this text, senators in various Senates in the world organize around political affinities expressed within party names. This is not surprising since, in most cases, they are elected under political banners. However, the multiplicity of groups prevents partisanship from undermining the effectiveness of their work.

In Canada, we need to move away from the duopoly. It clearly accentuates partisanship, as can be seen in the United States.

Senators need to work in groups to accomplish their constitutional mandate. Each senator gets involved in an area that they know best. It is impossible for individual senators to do a comprehensive analysis of every single bill.

The purpose of the group is to ensure that each senator can fulfill their constitutional mandate. However, senators should not be at the service of caucuses or groups. I do not think the exercise of legislative review as being a competitive team sport. The group can help each senator inform their opinion, but the game is not getting the “team” to win. The latter mentality being the reality in a partisan senate.

In short, in a non-partisan and independent Senate, the group is at the service of senators, not the other way around. Nonetheless, independent and non-partisan senators must act responsibly and carry out their duties without the supervision of a Whip. Today, televised debates and attendance records are effective tools for ensuring discipline. At least, that is what we hope.

11. How to improve the efficiency of the Senate?

In economics, efficiency is measured by the output produced per unit of time. How do we talk about efficiency in the political realm and in the context of the Senate? A Senate can be thought of as productive when it carries out its mandates in a timely manner.

A partisan Senate often uses delaying tactics to delay and frustrate the opposing party.

In recent years, the Conservative Party, in its role as Official Opposition, has often used delaying tactics that have exasperated many senators. This has not necessarily benefited Canadians.

The Government Representative Office (GRO) during the 42nd Parliament proposed the adoption of a Super Scroll (Management or Program Committee) on bills. Several senators from different groups have expressed support for this idea, which has been put into practice in the consideration of two major bills, those being the bill regarding medical assistance in dying and the bill regarding the legalization of cannabis. Such a programming committee would help improve the efficiency of the Senate.

Not all public bills from the House of Commons and the Senate are dealt with during a Parliamentary legislature nor are they put to the vote. New procedures that shorten certain time frames would allow for these bills to be dealt with fairness. Senators Sinclair and Dalphond have proposed procedural changes to this effect in a motion already on the Order Paper.

12. What is an accountable Senate?

Senators, like other parliamentarians in Canada and elsewhere, enjoy parliamentary privileges. These privileges are long-standing and were created to protect parliamentarians from abuse by governments that might want to muzzle them. However, the concept of parliamentary privilege has evolved over time. It cannot be used to deny the right to review to the expenses and actions of senators.

The Canadian public has a right to know how public money is being spent. Partly because of the expense’s scandal of 2013, the Senate has been publishing details of senators' expenses on its public website for several years.

Canadian public also has the right to demand Senators to justify their legislative decisions. After all, even Supreme Court justices justify their decisions.

The Senate does not systematically justify its decisions on all bills. While debates in committees and in the Red Chamber are open to the public, reports of committees are often silent especially when the adoption of a bill is proposed without any amendment. Also, some private member bills of public interest die on the Order Paper after being sent to a committee without even a detailed report stating the reasoning behind it being put on a shelf.

The adoption of the motion 89 that I referred to previously would not only help each Senator in their analysis of bills but would also enable the Senate to account to the all Canadians of their second sober thought on those bills.

13. Can the Senate improve its relevance in the eyes of Canadians?

The relevance of the Senate is not only a communication issue.

Committees must be more responsive to the needs and questions of Canadians. How can committees best address this issue?

I do not have a short answer to these questions. The work initiated by Senator Forest-Niesing will help us to identify some answers.

However, it is important to understand that modernizing the structure and functioning of committees is difficult to initiate. There is currently resistance in the Senate to revise the structure of committees. As I said before, the awarding of allowances to committee Chairs and Vice-Chairs introduced in 2003 can be an obstacle to reform. This system of retribution is not necessarily fair. There may be other ways to recognize the special work of Chair. Senator Dalphond's motion is an opportunity for us to look at this issue. The Senate must initiate a deeper discussion on how committees' work can be made more relevant to Canadians.

14. Is a non-partisan and independent Senate compatible with an Official Opposition?

This question is difficult to answer. Most recently, the Official Opposition has prevented several senators from moving their private members' bills forward. Some senators might be frustrated with those tactical strategies.

However, it must be recognized that throughout the 42nd Parliament, the Official Opposition did not prevent votes on government bills from taking place. At no time was the Government Representative ever forced to introduce a time allocation motion to move government bills forward. This was not the case in the 41st Parliament. In the last Parliament, even though it had not always been easy, the leaders and facilitators were able to agree that the Senate should fulfill its primary role, which is to review government bills.

The opposition has not been always accommodating on Other Business items in the Order Paper. Procedural changes, if adopted, are expected to allow these other items to proceed more rapidly and

go to a vote more easily. However, it must be acknowledged that the Senate's priority is primarily government business.

That is why I believe that in the context of this 43rd Parliament where there is a minority government, legislative changes to the Parliament of Canada Act would be limited to the formal recognition of groups not affiliated with a political party. That would already be a significant victory. For the moment, I think it is premature to work to eliminate the official opposition and the government representative in the Senate. It may even be counterproductive for the moment. A deeper thinking must be undertaken.

The following table lists most of the actions adopted and to be undertaken in the short-term to modernize the Senate in order to meet some basic expectations of Canadians.

Table A: Actions took and to be undertaken in the short term to respond to some basic preferences of Canadians

<i>Characteristics of the Senate</i>	<i>Actions undertaken since 2015</i>	<i>Actions to soon be undertaken</i>
A non-partisan Senate	<ul style="list-style-type: none"> - A more transparent process for selecting candidates for the position of Senator; - Creation of non-partisan groups: ISG, CSG, PSG - End of the duopoly and adoption of the principle of proportionality for groups. 	<ul style="list-style-type: none"> - Formalize the new method of selecting candidates by creating a Candidate Selection Commission; - Recognition of non-partisan groups in the <i>Parliament of Canada Act</i>; - Amend the Rules of the Senate to recognize similar powers and responsibilities between groups (Motion 12 by Sen. Woo); - Adopt recommendation 18,19 and 20 on QP of the First report on the Modernization of the Senate
An independent Senate	<ul style="list-style-type: none"> - Abolition of the Government Caucus and the creation of the Government Representative Office (GRO) 	<ul style="list-style-type: none"> - the Speaker <i>pro tempore</i> be elected by the entire electoral college (Recommendations 5, 6 in the first Modernization report); - Abolish reward mechanisms (office selection, travel, etc.) and special allowances for Chairs and Vice-Chairs of committees; (Motion by Senator Dalphond);

		<ul style="list-style-type: none"> - Establish membership in committees through an equitable process by which each senator is treated equally;
An efficient Senate		<ul style="list-style-type: none"> - Institute a management or a programming committee; - Revise the procedure to allow time for more efficient debates and shorten adjournment periods for other business (Motion by Sen. Sinclair and Sen. Dalphond);
A Senate accountable for its expenses and decisions	<ul style="list-style-type: none"> - Publication of Senators' expenses; - Motion on the Standing Committee on audit and oversight adopted; 	<ul style="list-style-type: none"> - CIBA, establish the Standing Committee on audit and oversight; - Review the Rules of the Senate for drafting committee reports on bills (Motion 89 - 42nd Parl.).
A relevant Senate	<ul style="list-style-type: none"> - Substantial improvement of the Senate's communications services; - Broadcasting of proceedings. 	<ul style="list-style-type: none"> - Revise the system of committees to make it more efficient (Sen. Forest-Niesing); - Provide a mechanism for communication between the public and the Senate for the selection of committee studies. (TBD)

15. Are there more fundamental changes to contemplate for the Senate?

The changes currently under way can greatly improve the quality of the Senate's legislative review work. However, more far-reaching changes can be considered for the future. Some Senates around the world can be an inspiration, such as the House of Lords and the Senate of France. The House of Lords is more familiar, and the recent reforms undertaken bring us closer to this model. The interest of the Senate of France is that it has a programming committee called the "Conference of Presidents" (*La Conférence des Présidents*). The latter would require changes to the Parliament of Canada Act.

The House of Lords is made up of several groups with political affinity and characterized by the official government and opposition structure. However, a group of Crossbencher Lords, composed of individuals independent of any political allegiance and large enough in number, holds the balance of power. According to the British expert Meg Russell, the existence of this group of Crossbenchers promotes non-partisan debate and independent decision-making. This group is composed mainly of former high ranking civil servants, judges, academics, and other members of society who do not have any political affiliation. At first glance, the members of this group do not appear to be involved in any political or even civic activity. They are independent of cause and ideology. However, as Professor Russell notes, the composition of this group may have been changing recently. This is a story worth following. In principle, this group of Lords, independent of any cause, ensures what one can describe as the “organic” independence of the Upper House. In other words, because this group of independents holds the balance of power, it can ensure a balance in legislative decisions to satisfy a broader spectrum of the population. It also ensures that the House of Lords is not rubber stamping the government’s legislation.

The French model is different. The Senate is made up of several groups characterized by their political affinity. It programs its activities within the Committee of Presidents headed by the President of the Senate. In this model, the Ministers are invited to defend their bills. There is no government or opposition representatives. The President brings together the Chairs of all the groups on a regular basis to establish a program for the study of bills. Senators are divided among the different political affinity groups and may decide to join them only for administrative reasons.

There are undoubtedly other models. Though, none of them are applicable to Canada in their entirety, due to our uniqueness that stems from our Constitution. Nevertheless, these models can serve as inspiration.

Before I conclude, I would like to highlight two other models mentioned by some honourable senators.

As early as 2014, in the context of speeches delivered in the Upper House on the modernization of the Senate, Senator Ringuette proposed an organizational model based on the concept of regional divisions, a concept enshrined in the Constitution, section 22. This model was subsequently taken up by the GRO and Senator Harder, as well as by Senator Segal in a paper he presented publicly. The idea of creating regional divisions is an interesting one. The regional divisions could meet the administrative needs of the House (such as committee assignments and the like). Senators could also participate in groups with a political affinity that can serve essentially the needs of digging deep into issues and sharing thoughts. The work of the Senate could be organized in this fashion through a program or business committee. These two tiers model could be interesting in the future. It would not need any constitutional changes and would permit to focus on regional and minorities aspects.

Finally, there is another model presented by our colleague Senator Sinclair who proposes to think of the Senate as a Council of Elders. This model is inspired by First Nations culture.

If we want the Senate to become a Council of elders, we may need to modify the qualifications requirements necessary to become a senator. This may require a constitutional amendment. However, nothing precludes that this model inspires the creation of a recognized group in the Senate. This could have an impact on the Senate as a whole.

In conclusion, many changes to the Senate practices, rules and culture can be adopted without changing the Constitution of Canada. Since 2015, the Senate has already changed. It is much less partisan. Thanks to the exclusion of the liberal caucus from the national caucus, the new appointment process and the creation of three non-partisan groups. All these changes take time and effort. But this time, hopefully, the Senate is transforming for good into an institution that is less partisan, more independent and complementary to the other place. However, in pursuing the process of modernization, let's not ever forget that we have been appointed to serve Canadians and they must be at the center of our preoccupations. To this end, we need to find ways to establish more direct exchanges with Canadians. We also need to work with all senators of goodwill if we want to succeed in this journey. Changes in the Senate cannot be imposed. Only consensus bring durable changes in the culture and the practices of the Upper House.

Appendix A

Estimate of the Senates in the world by date of creation

1900	1945	1960	1980	2000	2014	
United Kingdom (14th century)	United Kingdom (14th century)	United Kingdom (14th century)	United Kingdom (14th century)	United Kingdom (14th century)	United Kingdom (14th century)	
United States of America (1776)	United States of America (1776)	United States of America (1776)	United States of America (1776)	United States of America (1776)	United States of America (1776)	
France (1795)	France (1795)	France (1795)	France (1795)	France (1795)	France (1795)	
Finland (1809 - 1906)	Chili (1812)	Chili (1812)	Chili (1812)	Chili (1812)	Chili (1812)	
Chili (1812)	Colombia (1812)	Colombia (1812)	Colombia (1812)	Colombia (1812)	Colombia (1812)	
Colombia (1812)	Netherlands (1815)	Netherlands (1815)	Netherlands (1815)	Netherlands (1815)	Netherlands (1815)	
Netherlands (1815)	Norway (1814 - 2009)	Norway (1814 - 2009)	Norway (1814 - 2009)	Norway (1814 - 2009)	Brasil (1824)	
Norway (1814 - 2009)	Brasil (1824)	Brasil (1824)	Brasil (1824)	Brasil (1824)	Bolivia (1826)	
Brasil (1824)	Bolivia (1826)	Bolivia (1826)	Bolivia (1826)	Bolivia (1826)	Belgium (1831)	
Bolivia (1826)	Belgium (1831)	Belgium (1831)	Belgium (1831)	Belgium (1831)	Spain (1837)	
Greece (1829 - 1935)	Spain (1837)	Spain (1837)	Spain (1837)	Spain (1837)	Dominican Republic (1844)	
Belgium (1831)	Dominican Republic (1844)	Dominican Republic (1844)	Dominican Republic (1844)	Dominican Republic (1844)	Liberia (1847)	
Spain (1837)	Liberia (1847)	Liberia (1847)	Liberia (1847)	Liberia (1847)	Italy (1848)	
Dominican Republic (1844)	Italy (1848)	Italy (1848)	Italy (1848)	Italy (1848)	Switzerland (1848)	
Liberia (1847)	Switzerland (1848)	Switzerland (1848)	Switzerland (1848)	Switzerland (1848)	South Africa (1853)	
Italy (1848)	Danemark (1849 - 1953)	South Africa (1853)	South Africa (1853)	South Africa (1853)	Argentina (1854)	
Switzerland (1848)	South Africa (1853)	Argentina (1854)	Argentina (1854)	Argentina (1854)	Canada (1867)	
Danemark (1849 - 1953)	New-Zeland (1853 - 1951)	Island (1874 - 1991)	Island (1874 - 1991)	Canada (1867)	Australia (1901)	
South Africa (1853)	Argentina (1854)	Sweden (1866 - 1969)	Canada (1867)	Australia (1901)	Philippines (1916)	
New-Zeland (1853 - 1951)	Island (1874 - 1991)	Canada (1867)	Australia (1901)	Philippines (1916)	Mexico (1917)	
Argentina (1854)	Sweden (1866 - 1969)	Australia (1901)	Philippines (1916)	Mexico (1917)	Austria (1920)	
Island (1874 - 1991)	Canada (1867)	Philippines (1916)	Mexico (1917)	Austria (1920)	Irland (1937)	
Sweden (1866 - 1969)	Australia (1901)	Mexico (1917)	Austria (1920)	Irland (1937)	Jordania (1946)	
Canada (1867)	Philippines (1916)	Austria (1920)	Irland (1937)	Jordania (1946)	Japan (1947)	
	Mexico (1917)	Irland (1937)	Venezuela (1961 -1999)	Japan (1947)	Germany (1949)	
	Austria (1920)	Venezuela (1961 -1999)	Jordania (1946)	Germany (1949)	India (1950)	
	Irland (1937)	Jordania (1946)	Japan (1947)	India (1950)	Malaisya (1959)	
	Venezuela (1961 -1999)	Japan (1947)	Germany (1949)	Malaisya (1959)	Jamaica (1962)	
		Germany (1949)	India (1950)	Jamaica (1962)	Barbados (1964)	
		India (1950)	Malaisya (1959)	Barbados (1964)	Democratic Republic of Congo (1964)	
		Malaisya (1959)	Turkey (1961 - 1982)	Democratic Republic of Congo (1964)	Botswana (1966)	
			Jamaica (1962)	Botswana (1966)	Uruguay (1967)	
			Barbados (1964)	Uruguay (1967)	Bahamas (1973)	
			Democratic Republic of Congo (1964)	Bahamas (1973)	Grenada (1973)	
			Botswana (1966)	Grenada (1973)	Pakistan (1973)	
			Uruguay (1967)	Pakistan (1973)	Trinidad and Tobago (1976)	
			Bahamas (1973)	Trinidad and Tobago (1976)	Saint-Lucia (1979)	
			Grenada (1973)	Saint-Lucia (1979)	Egypt (1980)	
			Pakistan (1973)	Egypt (1980)	Antigua and Barbuda (1981)	
			Trinidad and Tobago (1976)	Antigua and Barbuda (1981)	Belize (1981)	
			Saint-Lucia (1979)	Belize (1981)	Palau (1981)	
			Egypt (1980)	Palau (1981)	Haiti (1987)	
				Haiti (1987)	Poland (1989)	
				Poland (1989)	Burkina Faso (1991)	
				Burkina Faso (1991)	Mauritania (1991)	
				Croatia (1991 - 2004)	Romania (1991)	
				Mauritania (1991)	Slovenia(1991)	
				Romania (1991)	Mali (1992)	
				Slovenia(1991)	Paraguay (1992)	
				Mali (1992)	Czech Republic (1992)	
				Paraguay (1992)	Lesotho (1993)	
				Nepal (1990 - 2006)	Namibia (1993)	
				Czech Republic (1992)	Russia (1993)	
				Lesotho (1993)	Ethiopia (1994)	
				Namibia (1993)	Yemen (1994)	
				Russia (1993)	Bosnia-Herzegovina (1995)	
				Ethiopia (1994)	Kazakhstan (1995)	
				Malawi (1994 - 2001)	Algeria (1996)	
				Yemen (1994)	Belarus (1996)	
				Bosnia-Herzegovina (1995)	Morocco (1996)	
				Kazakhstan (1995)	Oman (1996)	
				Algeria (1996)	Gabon (1997)	
				Belarus (1996)	Madagascar (1998)	
				Morocco (1996)	Cambodia (1999)	
				Oman (1996)	Nigeria (1999)	
				Chad (1996 - 2004)	Tadjikistan (1999)	
				Gabon (1997)	Bahrain (2001)	
				Madagascar (1998)	Congo (2002)	
				Cambodia (1999)	Uzbekistan (2002)	
				Nigeria (1999)	Rwanda (2003)	
				Tadjikistan (1999)	Afghanistan (2004)	
					Indonesia (2004)	
					Burundi (2005)	
					Sudan (2005)	
					Swaziland (2005)	
					Tunisia (2005)	
					Zimbabwe (2005)	
					Senegal (2007)	
					Thailand (2007)	
					Bhutan (2008)	
Number of Senates	24	28	31	42	71	80
Members of the UN		52	100	155	190	193
Proportion of Senates according to members of the UN		54%	31%	27%	37%	41%

Appendix B

Designation process of Senates

Nominated Senates	Elected Senates	Both Elected and Nominated Senates
Antigua-et-Barbuda	Argentina	Afghanistan
Bahamas	Australia	Algeria
Bahreïn	Austria	Belarus
Barbade	Belgium	Bhutan
Belize	Bolivia	Botswana
Bosnie-Herzégovine	Brazil	Burundi
Canada	Burkina Faso	Cambodia
Grenade	Chile	Egypt
Jamaïque	Colombia	India
Jordanie	Congo	Ireland
Lesotho	Czech Republic	Kazakhstan
Madagascar	Democratic Republic of Congo	Malaysia
Oman	Dominican Republic	Romania
Royaume-Uni	Ethiopia	Russia
Sainte-Lucie	France	Rwanda
Trinité-et-Tobago	Gabon	Senegal
Yémen	Germany	Swaziland
	Haiti	Tajikistan
	Indonesia	Thailand
	Italy	Tunisia
	Japan	Uzbekistan
	Liberia	Zimbabwe
	Mali	
	Mauritania	
	Mexico	
	Morocco	
	Namibia	
	Netherlands	
	Nigeria	
	Pakistan	
	Palau	
	Paraguay	
	Philippines	
	Poland	
	Slovenia	
	South Africa	
	Spain	
	Sudan	
	Switzerland	
	United States of America	
	Uruguay	
Total : 17	41	22

Appendix C

Senates Veto power in 2014

Absolute Veto Power	Suspensive Veto Power	No Veto Power
Australia	Afghanistan	Antigua and Barbuda
Brazil	Algeria	Bahamas
Canada	Argentina	Botswana
Colombia	Austria	Burkina Faso
Netherlands	Bahrain	Burundi
Romania	Barbados	Cambodia
Rwanda	Belarus	Egypt
Swaziland	Belgium	Ethiopia
Tajikistan	Belize	Indonesia
Trinidad and Tobago	Bhutan	Mali
United States of America	Bolivia	Morocco
Uzbekistan	Bosnia and Herzegovina	Namibia
	Chile	Nigeria
	Congo	Oman
	Czech Republic	Palau
	Democratic Republic of Congo	Paraguay
	Dominican Republic	Poland
	France	Senegal
	Gabon	Yemen
	Germany	
	Grenada	
	Haiti	
	India	
	Ireland	
	Italy	
	Jamaica	
	Japan	
	Jordan	
	Kazakhstan	
	Lesotho	
	Liberia	
	Madagascar	
	Malaysia	
	Mauritania	
	Mexico	
	Pakistan	
	Philippines	
	Russia	
	Slovenia	
	South Africa	
	Spain	
	St. Lucia	
	Sudan	
	Switzerland	
	Thailand	
	Tunisia	
	United Kingdom	
	Uruguay	
	Zimbabwe	
Total :	12	49
		19

Senate's Right of Amendment in 2014

Complete Right of Amendment	Excepted in financial matters	None, but can propose	None
Afghanistan	Australia	Cambodia	Algeria
Antigua and Barbuda	Bahamas	Mali	Austria
Argentina	Barbados	Namibia	Belarus
Bahrain	Canada	Oman	Botswana
Belgium	Chile	Russia	Burkina Faso
Belize	India		Egypt
Bhutan	Ireland		Ethiopia
Bolivia	Lesotho		Germany
Bosnia and Herzegovina	Madagascar		Indonesia
Brazil	Malaysia		Netherlands
Burundi	Mauritania		Tajikistan
Colombia	Morocco		Yemen
Congo	Philippines		
Czech Republic	Rwanda		
Democratic Republic of Congo	Senegal		
Dominican Republic	Slovenia		
France	St. Lucia		
Gabon	Sudan		
Grenada	Thailand		
Haiti	Trinidad and Tobago		
Italy	Tunisia		
Jamaica	Uruguay		
Japan	Zimbabwe		
Jordan			
Kazakhstan			
Liberia			
Mexico			
Nigeria			
Pakistan			
Palau			
Paraguay			
Poland			
Romania			
South Africa			
Spain			
Swaziland			
Switzerland			
United Kingdom			
United States of America			
Uzbekistan			
Total :	423	5	12