

Compromise to get a Compromise

# Discussion Of Senate Reform



# A Simple Question

“Can the Canadian Confederation survive forever if there is no EEE?”

In other words, “Can we survive indefinitely if the provinces do not have equal representation at the federal level?”



# Philadelphia May to September 1787

- The Constitutional Convention of the 13 states has come to be known as the “Miracle at Philadelphia” such was the gravity and level of achievement the came from it.
- Had it failed there would be no United States of America today.

# The purpose of a Senate

Madison:

"The use of the Senate is to consist in its proceeding with more coolness, with more system and with more wisdom, than the popular branch."

## Typical features of a Senate

- The intent of a senate almost without exception is to be a more “sober” body than the house. Usually longer terms between election or appointment.
- Usually fewer members – viewed as a more senior, wiser body that isn’t as vulnerable to swings in public opinion and political mandates.

## Further...

- An additional goal in some countries is to provide/recognize the equality of status of the legislative bodies that are one level below – In other words - the provinces or states
- Thus a check on the more heavily populated provinces or states - the confederating units as it were.
- Bicameral – two “houses” – with roughly Equal Powers in other words, Equally “Effective”

How the states  
would be  
represented  
was THE issue  
of the  
convention...

- From the outset it dwarfed all other issues.
- James Wilson in June spoke on behalf of the smaller states that all would be lost if the states were not represented equally.
- What is now the greatest, most powerful nation on earth would likely not have held together for the past 230 years if the issue had not been resolved.



The smaller  
states were  
concerned  
about one  
thing...

- The tyranny of the majority...
- That the large states would control the federal government for their benefit and not for the benefit of all states...
- The smaller states refused to sacrifice their sovereignty to the federation if they did not have fair – equal representation at the federal level.

# The Great Compromise

...

- After months of argument the larger states agreed to let all states have equal representation:

The **Connecticut Compromise** (also known as the **Great Compromise of 1787** or **Sherman Compromise**) was an agreement that large and small states reached during the [Constitutional Convention](#) of 1787 that in part defined the legislative structure and representation that each state would have under the [United States Constitution](#). It retained the [bicameral legislature](#) as proposed by [Roger Sherman](#), along with proportional representation of the states in the lower house, but required the upper house to be weighted equally among the states. Each state would have two representatives in the [upper house](#).

## In The US continued...

- Senate representation was explicitly protected in [Article Five of the United States Constitution](#):  
“...no state, without its consent, shall be deprived of its equal suffrage in the Senate.”

Originally senators were appointed by state governments – changed to Elected in 1913 with the [17th amendment](#) to the Constitution.

So for 105  
years the  
United States  
have had a:

- Triple “E” Senate that is:

**Equal**

**Elected**

**And**

**Effective**

## Another point of note:

- The US Constitution is a timeless document. It references specific states **precisely zero times**.
- It could be literally be applied to any country.
- It does have one flaw – more on that later.



## In Canada:

Provinces have legal equality in constitution everywhere except in senate

- The Senate already has the powers on paper
- Doesn't flex them because they are appointed – not elected – have no real mandate
- Numerous examples of where the large provinces have abused or taken advantage of smaller provinces.

# We **NEED** Triple E

- Because it protects the small provinces and minority provinces from the tyranny of the majority.
- There can be no realistic assumption that this Confederation will last indefinitely unless it is addressed.
- So why wait?



But That's not  
going to  
happen...

- Need 7 provinces with more than 50% of the population AND the cooperation of the federal government
- EEE makes sense But larger provinces won't go along with it because math
- And the math is getting worse – bigger provinces are getting bigger and small are getting smaller

The  
Constitution is  
unfair  
because of its  
specific  
geographical  
references...

- And it is unfair that **geographic realities that existed 80-100 years ago that aren't the reality today** handicap the senate. BC and Alberta have fewer senate seats (6 each) than Nova Scotia or New Brunswick (10 each)
- Geographical references abound – for example, the Canadian constitution 1867 and 1982 references Quebec 150 times.
- Geography changes. A successful, timeless constitution must allow adaptation to those changes to happen without requiring amendment.

# The larger Provinces have a point...

- THE primary reason why we have reached an impasse on senate reform is that the requirement of 7/50 cannot be met without one of the two largest provinces signing on.
- The argument they make is that the smaller provinces are too small in relation to the larger ones...

# Fun with numbers...

- Let's look at the merits of their argument...

## Canada's Population in 1951

	1951	% of Total
Prince Edward Island	98,429	0.70%
Newfoundland and Labrador	361,416	2.58%
New Brunswick	515,697	3.68%
Nova Scotia	642,584	4.59%
Manitoba	776,541	5.54%
Saskatchewan	831,728	5.94%
Alberta	939,501	6.71%
British Columbia	1,165,210	8.32%
Quebec	4,055,681	28.95%
Ontario	4,597,542	32.82%
Canada	14,009,429	

## Canada's Population more recently...

	2016	2011	% Change
Prince Edward Island	142,907	140,204	1.93%
Newfoundland and Labrador	519,716	514,536	1.01%
New Brunswick	747,101	751,171	-0.54%
Nova Scotia	923,598	921,727	0.20%
Saskatchewan	1,098,352	1,033,381	6.29%
Manitoba	1,278,365	1,208,268	5.80%
Alberta	4,067,175	3,645,257	11.57%
British Columbia	4,648,055	4,400,057	5.64%
Quebec	8,164,361	7,903,001	3.31%
Ontario	13,448,494	12,851,821	4.64%
Canada	35,151,728	33,476,688	5.00%

## Provincial Share of Population...

	2016	2011	% Change
Prince Edward Island	0.41%	0.42%	-2.93%
Newfoundland and Labrador	1.48%	1.54%	-3.81%
New Brunswick	2.13%	2.24%	-5.28%
Nova Scotia	2.63%	2.75%	-4.57%
Saskatchewan	3.12%	3.09%	1.22%
Manitoba	3.64%	3.61%	0.76%
Alberta	11.57%	10.89%	6.26%
British Columbia	13.22%	13.14%	0.60%
Quebec	23.23%	23.61%	-1.62%
Ontario	38.26%	38.39%	-0.34%
Canada	100.00%	100.00%	

## The Current Composition of the Senate

	# of Seats	2016 Pop'n	Pop'n per Seat
Yukon	1	35,874	35,874
Nunavut	1	35,944	35,944
Northwest Territories	1	41,786	41,786
Prince Edward Island	4	142,907	35,727
Newfoundland and Labrador	6	519,716	86,619
New Brunswick	10	747,101	74,710
Nova Scotia	10	923,598	92,360
Saskatchewan	6	1,098,352	183,059
Manitoba	6	1,278,365	213,061
Alberta	6	4,067,175	677,863
British Columbia	6	4,648,055	774,676
Quebec	24	8,164,361	340,182
Ontario	24	13,448,494	560,354
<b>Canada</b>	<b>105</b>	<b>35,151,728</b>	<b>334,778</b>



## The Composition of the Senate – If we had EEE today \*

	# of Seats	2016 Pop'n	Pop'n per Seat
Yukon	1	35,874	35,874
Nunavut	1	35,944	35,944
Northwest Territories	1	41,786	41,786
Prince Edward Island	10	142,907	14,291
Newfoundland and Labrador	10	519,716	51,972
New Brunswick	10	747,101	74,710
Nova Scotia	10	923,598	92,360
Saskatchewan	10	1,098,352	109,835
Manitoba	10	1,278,365	127,837
Alberta	10	4,067,175	406,718
British Columbia	10	4,648,055	464,806
Quebec	10	8,164,361	816,436
Ontario	10	13,448,494	1,344,849
Canada	103	35,151,728	341,279

\* (assuming 10 per province as was discussed during the time of Meech.)

## Combined Population of:

	1951		2016	
Five Smallest Provinces	2,394,667	17.09%	3,361,019	10.04%
Five Largest Provinces	11,589,662	82.73%	30,008,404	89.64%

	1951		2016	
Six Smallest Provinces	3,226,395	23.03%	4,710,039	13.40%
Four Largest Provinces	10,783,034	76.97%	30,328,085	86.28%

## Combined Population of:

	2010		2019	
Twenty-five Smallest States	54,197,113	17.59%	58,380,124	17.82%
Twenty-five Largest States	228,184,597	82.41%	242,184,597	82.18%

	2010		2019	
Thirty Smallest States	79,850,542	25.91%	85,410,198	26.07%
Twenty Largest States	253,947,269	82.41%	269,214,671	73.93%

# Compromise to get a Compromise

- If we are to make progress on senate reform we need to examine what it means/is required for a province to be a province.
- It seems logical that changes in geography and population be allowed to cause the evolution of provinces.

## In other words

- Our Constitution should have rules as to what constitutes a province..
- Rules that remove provincial status if a province's population falls below a set level,
- And allows the creation of new provinces from within a province if the new province would have a population greater than set percentage of the national total.

# A proposed Compromise

...

- A Province should have at least 1% of the Total Population
- If a province falls below that level it would become a territory and see its senator count reduced to that of a territory, or if desired that province could unite with a bordering/neighbouring province.

But there is  
also the  
Tyranny of the  
Majority  
within a  
province

- In some provinces the large population centres are running roughshod over the interests of other parts of that province.
- E.G. – Northern Ontario vs Southern/the GTA; the south shore of Quebec vs the GMA; Interior California vs the Coast; Upstate New York vs NYC.  
(It is notable that the US constitution does not allow a new state to be created from another without the permission of that state.)

And that  
begets  
another  
Compromise  
...

- A Province should be divisible if it is large enough.
- The new halves would both have to have at least 5% of the total Canadian population.
- And the segment that wishes to create a new province does not require the assent of the original province.



# A pathway for territories to become a province

- A Territory would have a minimum of one senator. And have an additional senator for every 0.5% of the national population to a maximum of 5.
- Once above 1% of the population the territory can ask to be granted provincial status if 70% of the provinces with at least 50% of the national population agrees.

Neither of  
these ideas is  
without  
precedent in  
Canada

- Initially the provinces of Alberta and Saskatchewan were to be just one province - “Buffalo”
- The Northwest Territories have been divided into Nunavut and The Northwest Territories

# With Moderation...

- Need to be able to have a system/rule book on
  - when a province ceases to be a province and
  - when a province can be created/calved from another province
- Requires the majority of the region to happen
- Populations need to be above (or below) the level for 20 years for the change to happen.
- Process needs to be initiated ten years before the vote? Five years?

## Some suggested rules...

- How the senators are selected is up to the provinces – can elect or appoint or a blend of both. (Territorial senators would be elected under the supervision of the federal government)
- Six senators per province
- Six-year term
- 3 term limit. (18 years)
- 2 elected/appointed every two years.
- Minimum age to be a senator – 36 (2 times the age of majority)

## The Composition of the Senate – Sixty years from now...

		Likely/Possible	Maximum
Territories		3	3
Prince Edward Island	0.21%	1	1
Newfoundland and Labrador	0.76%	1	1
New Brunswick	1.10%	6	6
Nova Scotia	1.34%	6	6
Saskatchewan	1.57%	6	6
Manitoba	1.99%	6	6
Alberta	17.82%	12	18
British Columbia	18.77%	12	18
Quebec	16.63%	18	18
Ontario	39.81%	30	42
<b>Canada</b>	<b>100.00%</b>	<b>101</b>	<b>125</b>

# The Quebec Issue

Should the country forever be fixed with a federal arrangement tilted in favour of one province?

- The recognition that the Quebecois nation is a founding part of the confederation should be in the preamble – not the body – of the constitution
- Becomes less and less relevant as Canada's demographic changes both outside of and within Quebec
- And many Quebecois live and have lived in Ontario and elsewhere in Canada since before Confederation.

# The Quebec Issue continued...

- And what of the Acadians – are they not a part of the French fact at confederation
- Permanently enshrining Quebec as being greater than all others FOR ALL TIME simply will not stand the test of time.
- Just as assuming the current provincial borders should always and forever remain fixed to remain the same for longer than the pyramids

# So to return to the Beginning

- Can the Canadian confederation survive forever if there is no EEE?
- If the answer is “no”,
- Then let’s get to work on crafting a compromise that achieves that.