

Australia's Senate and Senate Reform in Canada

Professor Howard Cody

When Canada's current political system was established in 1867, the Fathers of Confederation took pains to make Canada's federal government conform as closely as possible to British practice—and to diverge as sharply as possible from the supposedly failed political system of the United States. As Britain was a unitary state and Canada was a federation like the United States, this proved a formidable assignment. John A. Macdonald and his colleagues did their best. For one thing, they patterned their federal Senate after the British House of Lords. The chamber's members were to be appointed for life by the Governor General in Council (that is, by the prime minister), each 'region' of Canada (Maritimes, Quebec, Ontario, and the West) would receive twenty-four senators, and the Senate was to provide a House of Lords-style 'sober second thought' (Macdonald's term) to House of Commons-passed legislation. The Senate enjoys a legislative veto, but not because the Fathers of Confederation considered scrutiny and review desirable for their own sake. They believed no such thing. Instead, the Senate was intended to protect wealthy Canadians from potentially 'unwise' legislation passed by an unpredictable people's chamber. The Senate still retains its original structure with only minor modifications.¹

Although Canada's Senate defeated many Commons-passed bills in the nineteenth century, its lack of democratic legitimacy has proved a serious hindrance in the twentieth. Canada's current Senators fully realise that most Canadians and the media believe that appointed officials should not overrule the democratic will of the people as expressed through an elective chamber. For this reason, Canada's Senate rarely asserts its legislative veto. This predicament places Canada's Senators in an awkward and apparently superfluous situation.

¹ The definitive treatment of Canada's Senate claims that the chamber now operates as a lobby for the business and commercial interests with which many Senators are associated. Colin Campbell, *The Canadian Senate: A Lobby From Within*, Macmillan of Canada, Toronto, 1978.

At this time, the few Canadians who care about their Senate divide into three categories concerning what to do with it. Some Canadians wish to keep the Senate as it is, if only because this option imposes the least aggravation. Others advocate abolition of the chamber, while still others want Senate reform. This paper addresses only the Senate reform argument, but acknowledges that many Canadians who are dissatisfied with their existing Senate perceive no compelling reason to reform the chamber.

Since the 1970s, the Senate reform movement has gained considerable public support in those regions of Canada which have shown the greatest alienation from federal government policies, especially the four western provinces. All eight provinces of 'outer' Canada carry a long history of resentment against federal policy making which allegedly serves the interests of the 'inner' provinces of Ontario and Quebec.² Ontario and Quebec always have dominated the majoritarian House of Commons and federal ministers. (As of early 1996, these provinces provided 174 of 295 Commons seats and fifteen of twenty-three ministers, including, as usual, the prime minister.³) The two large and wealthy westernmost provinces, Alberta and British Columbia, endure the strongest alienation. Unsurprisingly, they have supplied the greatest impetus for Senate reform. Western Senate reformers have reached a near-consensus that Canada needs a 'Triple E' Senate not necessarily for executive scrutiny but to extend to 'outer' Canadians their deserved participation in federal policy making. Such a chamber would be elected, effective, and feature equal representation per province. Senate reformers' formulas for electoral procedures and effectiveness vary, but reformers agree that a new Senate will require the power to override or at least delay Commons-passed legislation.⁴

Canadians who propose Senate reform should seriously consider several aspects of Australia's experience with a Triple E Senate. After all, Australia serves as the only other 'First World' Westminster federation. Because the Canadian Senate reform movement advances the perceived needs of 'outer' Canada, I interviewed sixteen Senators from Australia's four 'outer' states (all states but New South Wales and Victoria) in May and June 1994 in their Canberra offices.⁵ I also interviewed Mr Harry Evans, Clerk of the Senate. Issues raised in these interviews were those which Senate reformers consider most important for protecting 'outer' Canada: method of election, representation of provinces and specified groups, party discipline, Senate powers, Senators in the ministry, and provisions for resolving House-Senate disputes.

² For an excellent survey of the causes of western alienation, see David Kilgour, *Inside Outer Canada*, Lone Pine Publishing, Edmonton, 1991.

³ 'Outer' Canadians fully realise that a succession of Quebeckers have served as prime minister for all but twenty-one years of this century, and for all but two years since 1963. This is one of many components in the resentment of many English Canadians over French-speaking Quebec's alleged domination of Canada's political life.

⁴ For a discussion of the Senate reform issue in recent years, see Randall White, *Voice of Region: The Long Journey to Senate Reform in Canada*, Dundurn Press, Toronto, 1990.

⁵ A report of earlier Australian interviews is found in Howard Cody, 'Australian Small State MPs and Senators as Representatives', *The Australian Quarterly*, vol. 60, no. 2, Winter 1988.

This paper argues that Australia's Senate experience has much to teach Canadians about their own Senate, even if (as we shall see) the functions which Australia's Senate carries out best are not the services which Canadian reformers demand from their own Senate. Australia's Senate performs reasonably well in a rather unfavourable environment. The Australian politics literature somewhat misleadingly refers to the Commonwealth Parliament as a 'Westminster mutation'. It appears so structurally, and the Senate was intended to operate as a states house, but in operation Australia's Parliament works very differently. Australia features the British majoritarian parliamentary system in uneasy accommodation with some American and some uniquely Australian elements. Support for British majoritarianism (the majority rules), not American constitutionalism (minorities can defeat majority-endorsed policies through checks and balances and separation of powers), largely prevails in Australia. It is telling that even Tasmanian Senators—Labor and non-Labor alike—confessed their difficulty in defending equal Senate representation for their state given what Australians consider substantial population differences between the states.

In Australia one encounters strong evidence of the same majoritarian mind-set and (to a lesser extent) the unicameral mentality which one finds in Canada and Britain, but which is wholly absent in the United States. Conspicuously missing from both Westminster federations is the uncontested American principle that equal state representation in the upper house represents a desirable and a democratic check on the majoritarian tyranny of numbers which the large states can impose in and through the lower house. That is, in the United States, where population differences between large and small states are many times greater than in Australia, the Senate representational principle enjoys fully equal legitimacy with the House of Representatives representational principle. This still is not the case in Australia, after nearly a century of a powerful upper house with equal state representation. Instead, Australian Senators indicated that Australians justify upper houses primarily for their negative and reactive responsibilities, as devices to scrutinise arbitrary and corruption-prone executives and to review government legislation.

Surely to some extent this situation testifies to a political system's capacity to mould minds to its underlying norms. However, Australia also may provide another explanation for this phenomenon. Tight party discipline in the Senate, before and since the introduction of proportional representation, has prevented Senators from acting conspicuously and effectively as champions of their states. Even though small state Senators enjoy a 2:1 numerical advantage in the chamber and on its committees, the Senate's present operation empowers opposition parties rather than the states as such. Although proportional representation confers much legitimacy, the Senate and especially individual Senators can command less legitimacy and public support as a redundant second party house than as the only states house. It is not wholly coincidental that the Senate faces its familiar reactive 'veto or echo' dilemma as a party house.

If Australia's Senate redefined itself as more of a states house (not necessarily as a small states house) and less of a party house, its exercise of power might attract less criticism, and in time the Senate might impress Australians with some of the arguments for a proactive upper house. The Senate now endures attack for empowering what large party interviewees called the 'marshmallow left' (the Australian Democrats) and the 'lunatic fringe' (the Greens). Would any political leader, even Mr Keating, dare dismiss Western Australia and

Queensland in similar terms? One suspects not, from fear of electoral retribution if nothing else. However, it might take a major transformation of Australia's Senate and political culture to effect the confrontation of majoritarian norms which might prove necessary before Australia's Senate can truly become a states house.

Canada's Senate Reform Movement

Canadian Senate reform proponents desire their proposed Senate to perform four functions which they believe the House of Commons cannot carry out effectively:

- *representation* (the Senate should offer legislative participation to those Canadians who do not enjoy adequate representation in the Commons, especially residents of smaller provinces, women, aboriginals, and certain other minorities);
- *responsiveness* (the Senate must demonstrate clearly that it is advancing the interests of these Canadians);
- *accountability* (Senators must answer to these Canadians, if only through the electoral process but for some reformers also through a recall provision); and
- *legitimacy* (Canadians must perceive that the Senate is carrying out its intended responsibilities in an appropriate manner).

Note that the scrutiny function is conspicuously missing from this list.

The Triple E Senate movement should be assessed in light of these arguments. Consensus on the details of Triple E still eludes Canada's Senate reformers. The Calgary-based Canada West Foundation, which has spearheaded the struggle for a Triple E Senate for more than a decade, has conducted several studies which defend the argument that the Senate must differ conspicuously from the Commons, but declines to offer specific recommendations on the details of Triple E.⁶ Although Senate reformers traditionally have concentrated their efforts on attaining equal provincial representation, they now realise that changes in Canadian society over the past decade necessitate a more inclusive model of Senate representation. The 1982 Canadian Charter of Rights and Freedoms may well be transforming certain Canadians into entitlement-demanding citizens like their American counterparts. The Charter already has empowered so-called 'Charter' Canadians (women, aboriginals, official language minorities, gays and lesbians, ethnic minorities, and other groups) who now demand enhanced and assured access to policy makers through organised interests or direct participation in policy making.⁷

⁶ The Canada West Foundation published a series of papers on various aspects of the Senate reform issue in the early 1990s. The most useful are Dr David Elton and Dr Peter McCormick, 'Measuring Senate Effectiveness', Canada West Foundation, Calgary, December 1991; and Dr Roger Gibbins, 'An Elected Senate', Canada West Foundation, Calgary, November 1991.

⁷ For studies which make the claim that the Charter of Rights and Freedoms is transforming Canada into a rights-oriented society like the United States, see Alan C. Cairns, *Disruptions: Constitutional Struggles from the Charter to Meech Lake*, MacLelland and Stewart, Toronto, 1991; and Seymour Martin Lipset, *Continental Divide: The Values and Institutions of the United States and Canada*, Canadian-American Committee, Toronto, 1989.

Canada's failed Charlottetown accord constitutional amendment package, which lost an October 1992 referendum, included (amongst many provisions) a Triple E Senate of sorts. This Senate was not a major or an especially controversial component of the accord, and the referendum defeat probably was not greatly influenced by the public's evaluation of the Charlottetown Senate. Moreover, the Charlottetown Senate almost surely expired with the remainder of the package. When Senate reform negotiations resume, Charlottetown probably will be disregarded. Even so, it might be noted for the record that the Charlottetown Senate would have provided a chamber of some sixty Senators (six per province) in a Parliament with well over three hundred MPs, election by procedures to be determined later by each province separately, and a suspensive veto over most legislation which could be resolved by a joint sitting of both houses without a double dissolution feature and with a better than 5:1 ratio in the Commons' favour. Many westerners who had fought for a powerful Senate dismissed the Charlottetown Senate as worse than the present arrangement, largely because of the unpromising joint sitting provision.⁸

At present, Canada's Senate reform movement remains in its potentially lengthy post-Charlottetown intermission. The issue will re-emerge in constitutional talks scheduled for early 1997. The Charlottetown failure affords Canadians the time to consider with care how they can devise a Senate which can carry out the responsibilities which a new Canadian Senate will need. The Australian Triple E Senate can identify what may and may not contribute to meeting these requirements.

The Australian Senate in the Commonwealth Parliament

This section assesses how small state Australian Senators consider their situation with respect to the electoral system, the Senate's powers, party solidarity, representation by state, the Senate's relationship with the House of Representatives, the Senate committee system, and Senators in the ministry. These are the issues which preoccupy Senate reformers in 'outer' Canada. All Canadian Senate reformers can agree on one feature: the chamber must be elected. While proportional and first-past-the-post simple plurality systems have their champions, very few Canadians display an interest in a preferential ballot. Australia's proportional ballot for the Senate has advantages and deserves serious consideration in Canada. A party list system creates nearly anonymous Senators, but it does permit the Senate to respect gender and ideological balance and to accommodate Senators of diverse backgrounds, careers, and party factions. Australia's Senate shows markedly more balance than the Representatives only in regard to gender, but a party list system can facilitate much greater upper house distinctiveness than Australia practices.

Moreover, a proportional arrangement allows Senators to secure election from parties which cannot win House seats in a state or province remotely proportional to their support there. Australia's Senate performs well in this regard, but note the discussion of party solidarity below. The relative absence of MPs in the government caucus from important sections of

⁸ For a western evaluation of the Charlottetown Senate, see David Elton, 'The Charlottetown Accord Senate: Effective or Emasculated?', in Kenneth McRoberts and Patrick J. Monahan, (eds), *The Charlottetown Accord, the Referendum, and the Future of Canada*, University of Toronto Press, Toronto, 1993.

Canada (especially western Liberals) has presented a recurring problem in Canada, not least in the current Parliament. These representational issues speak to legitimacy: Canada's new Senate must show clearly that it is respecting the interests of all provinces and important provincial populations, as well as newly-active 'Charter' groups.

Australia's Senate is powerful, one of the half-dozen strongest elective upper houses in the world. Interviews made it clear that any Westminster-modelled upper house needs coercive power—namely, a veto over legislation—if it is to establish and maintain credibility as a chamber of legislative review with the ministry and the lower house. Australian interviews identified eight functions or contributions to Australian political life which the Australian Senate, and only the Senate, can carry out:

- independent *scrutiny* of the executive to impose accountability and to detect misconduct and expose wrongdoing,
- *review* of legislation to improve government bills with amendments and to defeat unwise legislation,
- *checks and balances* against an otherwise all-powerful executive,
- a sense of *legitimacy* as residents of small states and supporters of opposition parties receive better representation in the Senate than in the House of Representatives,
- a source of *power* in national policy making for small states,
- an opportunity for small parties to provide *innovation* through their ideas for new policies,
- small party representation which helps to respect Australian society's growing *pluralism*, and
- finally the *time for close study through committee work* on major issues in Australian life which the House of Representatives cannot provide.

Australian Senators generally agreed with academic and press observers that their Senate performs the first three of these functions (especially scrutiny and review) quite well, largely through its committee system. Most interviewees appear to believe that the first three functions are the most important. The remaining functions are carried out less effectively and in particular less visibly, especially when they endeavour to protect the small states. Here the powerful norms of party solidarity, where the Senate nearly replicates the House of Representatives, prevail and make Australia's Senate more of a small parties house than a small states house. Party solidarity prevents small state Senators from exploiting their 2:1 numerical advantage. Put differently, party solidarity usually rules out the election of Senators who maintain stronger loyalty to their states than to their parties, or who build personal reputations and followings in their states. Instead, it is the small parties which exploit proportional representation to advance their own agendas. While this scarcely makes Senators 'unrepresentative swill', it does leave the chamber open to the charge that it comprises a redundant second party house.

Despite all this, small state Senators often do advance interests with which their states—or more accurately, their state parties—are associated. However, the manner in which they must operate helps to ensure that Australians and the media generally give Senators little recognition and appreciation for their efforts. Small state Senators usually operate as inconspicuously as their large state colleagues. They realise that they must maintain party solidarity and publicly advance policies popular in the large states where the next election—which is never far off in Australia—will be won or lost. This raises the matter of

public perceptions. Australians can monitor few if any of their Senators' party room activities. In fact, Australians usually receive very limited exposure even to their Senators' *public* exertions, including their committee work. Amongst other complications, this near-invisibility of Senators' lobbying and legislative activity combined with their general anonymity helps to prevent the public from expressing strong disagreement when Senators are called bludgers or worse.

Even so, in the Hawke and Keating governments small state Labor Senators sometimes secured concessions for their states through private intercessions with ministers. Liberal and (especially) National Party Senators make vigorous public and (more often) private representations on behalf of distinctive state concerns such as the wine industry in South Australia, grazier and timber interests in Tasmania, and the sugar industry in Queensland. Often they have enjoyed some success. For example, some small state Liberals asserted that they had influenced their party's position on aboriginal land claims. However, the Liberals were out of power at the time. Although the Australian Labor Party is well known for its imposition of a Leninist 'democratic centralism' on MPs' and senators' recorded votes, Liberals almost never cross the floor either. Differences in Liberal and ALP small state legislators' success in influencing party policy behind the closed doors of party rooms do exist but may be smaller than some believe. Backbenchers everywhere enjoy the most influence over party policy and tactics when in opposition.

Small state Senators characterised equal state Senate representation as a discernible benefit to their states. Their defence of equal representation was largely negative, much like Australians' justification for an upper house. That is, in both cases the Senate prevents undesirable outcomes through reaction to government policies and practices more than it facilitates desirable outcomes through proactive policy initiation of its own. Senators conceded that the Senate's operation does not give small states great power, but they contended that their states would enjoy still less party room leverage if the Senate and its party caucuses were majoritarian like the Representatives. Also, they identified the combination of equal state representation and proportional representation as a powerful inducement to all parties to respect each state's sensitivities, if only to avert the loss of a potentially crucial Senate seat.

Still, small states derive remarkably limited benefits from equal state representation. The pervasiveness of majoritarian norms plays a role here. However, weaker party discipline and/or the emergence and success of small state-oriented parties in the Senate might advance small state interests more effectively—and much more visibly—than the present arrangement. At the same time, these changes would generate still greater executive annoyance with the Senate, as Senators would demand larger policy concessions than they do now. In fact, Senators who can be (even falsely) labelled 'unrepresentative swill' create fewer problems for governments than competent legislators who perform conspicuously as champions of constituencies whose interests the ministry does not advance effectively.

We must take care not to beg the question on this point. Australia is not Canada. Perhaps Australian society is insufficiently divided by distinctive state or cultural identities, and also is too supportive of majoritarian unicameral and Westminster norms, to justify an equal state representation Senate whose members advance state interests. Besides, Australian society is

somewhat more homogeneous than even English Canadian society; Australia's small states already enjoy access to power in the major parties and in the ministry (some of it from the Senate), small states exercise visible power through their own governments, and small states receive a generous subsidisation from the Commonwealth. Small state Australians express less alienation over New South Welsh and Victorian numerical domination than Albertans and British Columbians display over Ontario and Quebec's perceived power monopoly, although the relative state/provincial populations and apportionment of MPs in the two countries are strikingly similar.

The Australian Senate's relationship with the House of Representatives centres around the 2:1 House-Senate nexus, the double dissolution procedure, and the manner in which the Senate can maintain a public image and reputation manifestly distinct from the Representatives. Clearly, Australia's constitutionally-imposed nexus works to the Senate's advantage in some respects. Many upper chambers (including the United States Senate and Canada's abortive Charlottetown Senate) feature greater than 4:1 ratios in the lower house's favour. While this presents no difficulty in the United States, the numerical ratio between chambers in a parliamentary system with joint committees and sittings is crucial. A small party Senator observed that Australia's Senate needs as many small state (and small party) Senators 'rattling around' Parliament House as possible, in order to ensure that these states and parties command attention and influence.

Double dissolution helps the Senate, but not from the nexus, whose potential advantage in a joint sitting is negated by proportional representation. Because the executive usually wishes to avert double dissolution (if only because it tends to advantage the vexatious small parties in the subsequent election), the Senate enjoys a favourable negotiating position on disputed matters. On the question of how the Senate maintains a distinctive reputation, Australia's Senate experience offers a case study replete with practices to avoid—a reputation much more for reaction and review than for proaction and policy initiation, which can be too easily associated with obstruction where majoritarian norms prevail; Senators in the ministry; and replication of the lower house's partisan atmosphere producing the 'same debates and same question time' as the lower house. The experience of the Australian Senate also provides examples of practices to adopt—a unique electoral system; party balance in proportion to the public's actual preferences; a different party composition; a genuine legislative role for large and small opposition parties; no party majority in the Senate; a relatively large Senate; and a respected committee system.

Many Australians contend that their Senate's strongest feature is its committee system. While this may be correct, there are problems with the workings of Australia's Senate committees which Canadian Senate reformers should seek to avoid. Thanks to highly disciplined parties and to the executive's jealous monopolisation of policy initiative, Australian Senators (much like Australian and Canadian MPs) often feel little incentive to become highly knowledgeable on matters considered by their committees or to work diligently on committees. Behaviour generally follows rewards. Only when Senators perceive committee work as useful and rewarding, as playing a major role in making public policy and in advancing their own personal reputations and careers, will they covet committee chairs and commit themselves fully to the time-consuming drudgery that committee work entails.

On the other hand, the situation for Australian Senate committees could be worse, much like it was before proportional representation was introduced. The Senate's legislative veto,

combined with the absolutely crucial proportional electoral system which prevents the ministry from controlling a majority of Senators, does offer Senate committees all-important credibility. Committees often exploit these features, which allow opposition parties (large and small alike) occasionally to influence legislation. Note, however, that they do so to advance their own agendas, not the interests of small states or groups (other than their parties) which may receive little attention from or representation in the Representatives and the ministry.

For many Australian Senators, the presence of several Senators in the ministry affords their chamber prestige and access to policy makers, as through question time. However, the Senate and its members may pay too high a price for these perceived benefits. On the whole, the interviews suggest that Australia's Senate would gain from excluding Senators from the ministry, particularly if in the process the chamber could stop replicating the partisan and adversarial atmosphere of the Representatives. Removing ministers from the Senate would enhance the Senate's distinctiveness from the Representatives, possibly on several fronts at once. Scrutiny and review functions would command greater credibility and respect if they could be carried out in a less partisan manner. Perhaps most importantly, a Senate without ministers might find itself able to operate more proactively and less reactively; that is, it might prove capable of exercising greater influence over the legislative agenda.

The same observation applies, perhaps still more so, to the Senate's other responsibilities. Senate committees and their chairs (which are now rotated amongst the parties, a most constructive development which might be built upon) would gain prestige and desirability if diligent committee work were made less partisan and, as a consequence, more rewarding. Senators could champion state interests more openly than they do now. Individual Senators could create a personal profile and a distinctive reputation inside their states. Paradoxically, a career in a Senate which lacked ministers could become more attractive to ambitious and talented Australians than it is now. The brevity of Senate careers suggests that the chamber now fails to attract and to retain enough Australians (Senators' resignation rates are appalling) who meet the 'ambitious and talented' description.

Australian Lessons for Canadian Senate Reformers

Australia's experience with its Triple E Senate affords at least thirteen major lessons which Canadians should consider carefully. They include:

- the need for a unique electoral system which prevents the government from controlling the chamber;
- concern for the representation and legitimacy functions which only a chamber whose party balance is proportional to votes cast can supply;
- the desirability of a Senate as large as possible relative to the lower house;
- the usefulness of an arrangement in which individual Senators can devise personal reputations for effective legislative performance;
- the advantages of the checks and balances which a scrutiny and review chamber can offer;
- the importance of a strong, independent, and respected committee system;
- the anonymity of party list Senators on, and elected from, a preferential ballot;
- the advantages of a chamber which can champion small provinces' and specified groups' interests proactively and not almost exclusively in reaction to others' initiatives;

- the usefulness of a real legislative role for large and small opposition parties;
- the relationship of and differentiation between the two houses;
- the inadvisability of Senators in the ministry;
- the effect of tightly disciplined parties upon the fulfilment of Canadians' four desired functions; and
- the relative indispensability of strong legislative power and equal provincial representation.

In politics, perception is reality. Canada's Senate must be seen to represent and advance the views of 'outer' Canadians, and also the interests of identified groups which can be accommodated by informal agreement (such as women) or formal allocation of seats (such as aboriginals). At the same time, the public somehow must perceive that their Senate serves all provinces and all Canadians. The government must not control the chamber, especially if Charter-induced cultural changes (as some believe) are leading certain Canadians finally to perceive a need for checks and balances in their federal government. Only some form of proportional representation can fulfil these criteria with any assurance.

Australia's experience above all strongly commends proportional representation for Canada, but it calls into question whether Canada should accept certain other aspects of the Australian system. Canada must avert the anonymity of Australian Senators and their tight party control in regard to candidate selection, position on the ballot, and public statements and votes. Canada needs a proportional ballot, but probably without the exotic preferential component which surely would result in a proliferation of informal ballots. Canadians do not recognise or tolerate formal party factions; if Canadians accept proportional representation, they must be convinced that the electoral system will not encourage party factions to form and flourish. Party nominees could be selected by province-wide postal ballot of party members, as they are now for some Australian Senators, or through some other device to ensure wide public participation and maximum public familiarity with individual Senate candidates (to respect the representation and accountability functions). Party solidarity in the chamber itself will have to be relaxed compared to the Commons for two reasons. Senators must be able to speak, vote, and initiate legislation for their constituents as conspicuously as possible (to advance the responsiveness function and to establish personal reputations in their provinces); and Senators' anonymity somehow must be minimised in Canada for adequate performance of all four functions.

Many of the preceding remarks also apply to the representation of 'outer' Canadian interests. Once again, perception is the key. Residents of 'outer' provinces must observe their Senators forcefully, and on occasion successfully, advancing their interests if a new chamber is to enjoy legitimacy with those Canadians who experience the greatest alienation under the existing system. Moreover, smaller provinces probably would elect some Senators of regional or other smaller parties whose MPs enjoy no power in the majoritarian Commons. The proportional representation chamber's capacity to return legislators who accurately mirror the popular vote, which Canada's House of Commons signally fails to do in every election, combined with the other factors listed above finally would present an opportunity for Canada's smaller provinces and parties to exercise influence over policy far beyond previous experience.

A reformed Canadian Senate must quickly establish a reputation as a distinct chamber with many visible differences from the House of Commons—and the more differences the better. Composition and method of election have been discussed. In addition, Canada's Senate will require a unique reputation for its committees, for its roles and responsibilities, for its relationship with the ministry, and if desired for its scrutiny and review activities. Australia has much to offer here, especially with its respected committee system, its rotation of committee chairs, and its scrutiny and review functions. In other respects, Canadians can learn from Australian experience that their new Senate can best perform its needed functions if ministers are excluded from the chamber—provided that Senate committees can require ministers to appear and answer questions—and if party discipline is relaxed considerably.

Finally, in anticipation of the difficult choices facing future Senate reform negotiators, the Australian Senators were pressed to choose whether equal state representation or a legislative veto is more important for Australia's Senate. After some often agonised consideration, most interviewees of all states and parties concluded that only credible legislative power is indispensable for their chamber's performance and respect in regard to all of its activities. If Australia's Senate lacked a legislative veto, equal state and proportional electoral representation could accomplish little. Canadians must recognise that their new Senate cannot satisfactorily perform a single one of their four desired functions if the chamber lacks real power. For this reason, the Charlottetown Senate's modest powers and small relative size must not be replicated in the next round of negotiations. If Canadian Senate reformers are forced in the bargaining process to choose between equal provincial representation and effective power for their Senate, they should forsake their Triple E mantra in favour of a legislative veto and modified representation by population.