

Has the Senate Changed Since the 1980s?: Some Quantitative Indicators

With the 2014 Supreme Court of Canada reference making transformative reform or abolition of the Senate unlikely in the near future, the author asks if informal or incremental reforms have occurred in the past 30 years. Using quantitative data, he finds that the upper chamber has become more representative of aspects of Canadian diversity in the sociological sense. Women, Aboriginal people and official-language minorities are represented in greater numbers in the Senate than in the House of Commons. The data concerning the Senate's effect on legislative business in Parliament reveals a somewhat uneven record.

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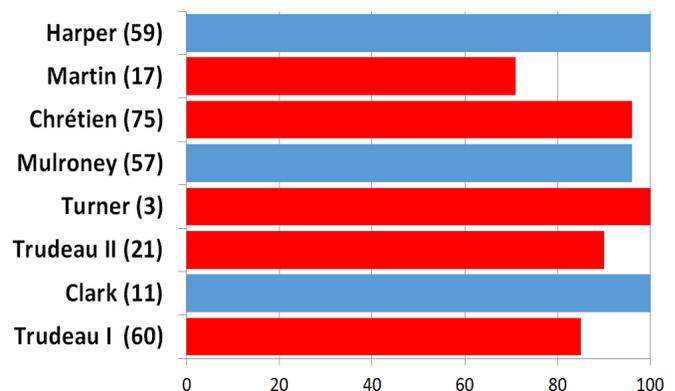
Despite the absence of major constitutional amendments in recent decades, the Senate of Canada has changed in certain respects; however, these changes have not improved Canadians' generally negative view of the Senate.

The 2014 Supreme Court decision in *Reference re Senate Reform* reduced the likelihood that the Senate will be abolished or will undergo substantial structural changes.¹ We now know for sure that abolition would require unanimous provincial consent and that seven provinces, including at least one of the two most populous, would have to agree to anything resembling a significant reform, including a reduction in senators' terms of office. Judging by the long list of failures in this area, success along these lines seems unlikely.²

Are we therefore stuck with the status quo? The answer is most likely yes in terms of constitutional reforms proper.³ However, too often we forget that political institutions can change in less formal ways. The prerogatives of the British monarch have not been formally limited in several

centuries, yet who would argue that Queen Elizabeth II plays as important a role in the British political process as her ancestor Queen Victoria? The Legislative Council of Quebec was very active in the 19th century, but had become a shadow of its former self by the time it was abolished in 1968, even though its powers had not been reduced in the meantime.⁴ A static constitutional framework can hide important changes in the identity and behaviour of the actors involved, and in the way they use their powers. Small, seemingly innocuous procedural innovations can prove judicious over time and can restore an institution's prestige.⁵ In this article quantitative analysis is employed to determine if this type of change has occurred in the Senate of Canada since the 1980s.⁶

Figure 1: Percentage of Senators Belonging to Prime Minister's Party on Appointment

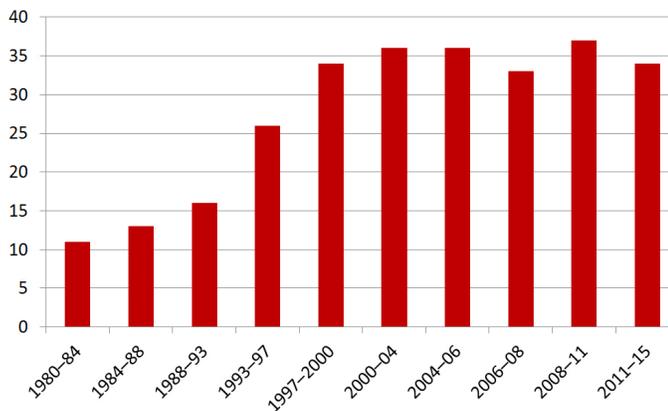


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Senate composition

The partisan majority in the Senate has changed hands more often in recent decades than in the past. For 46 years straight, the Liberals had a majority in the Senate. In 1990, the Progressive Conservatives took control, followed by the Liberals in 1996 and the Conservatives in 2009. These transitions are due to more frequent changes in the governing party since the 1980s, rather than a decision to stop appointing party loyalists to the Senate, a practice every prime minister since Macdonald has followed except in very rare cases (Figure 1).

Figure 2: Number of Women Senators in Each Parliament, 1980–2015



However, a review of the statistical data reveals interesting changes in the types of individuals being appointed to the Senate.⁷ Women and Aboriginal people have made important gains in the Upper House. The proportion of women has risen from 10 per cent to over 30 per cent, surpassing the proportion in the House of Commons (Figure 2). This change seems to be primarily the result of appointments made by prime ministers Chrétien and Martin. Aboriginal representation has increased and become more diverse: First Nations, Inuit and Metis are now represented in the Senate (Figure 3).

Figure 3: Number of Aboriginal Senators in Each Parliament, 1980–2015

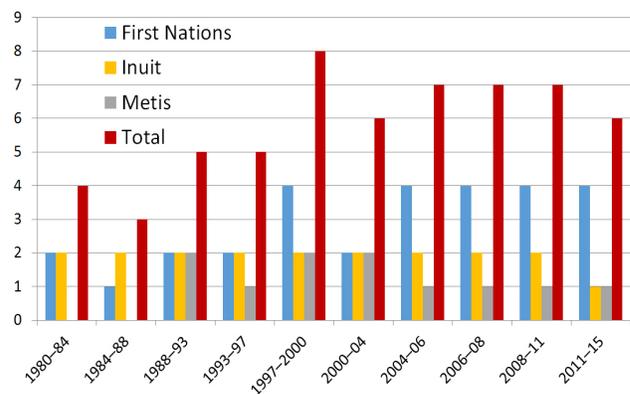
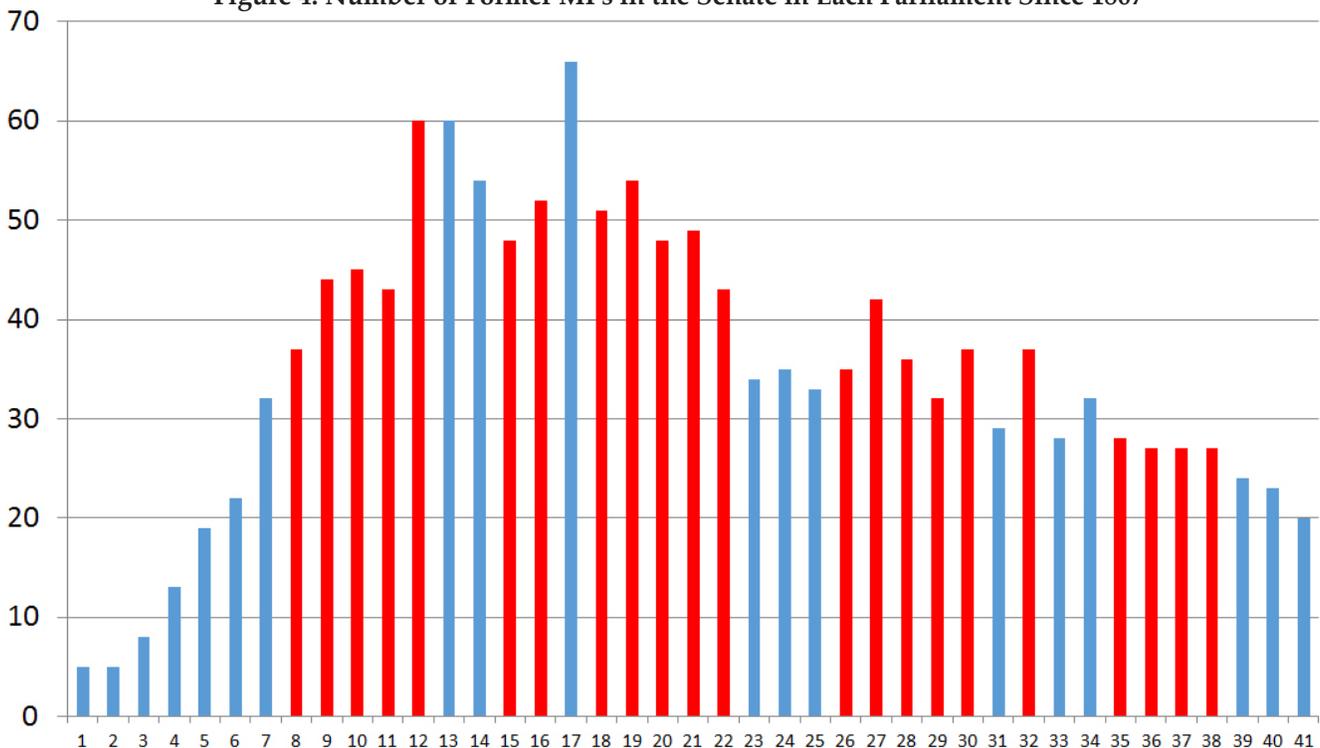


Figure 4: Number of Former MPs in the Senate in Each Parliament Since 1867



The Senate is home to fewer and fewer former federal MPs, continuing a trend that started in the 1940s and was likely accelerated by the creation of a pension plan for parliamentarians in 1952 (Figure 4). The number of former provincial politicians is also declining (Figure 5). Those former provincial politicians who are appointed to the Senate are disproportionately from the Atlantic provinces, probably because federal and provincial parties are more closely linked in those provinces (Figure 6).

Senators' occupations have also changed (Figure 9). Since the 1980s, the percentage of lawyers has declined (from 42 per cent to 25 per cent), while the percentage of businesspeople has grown (from 22 per cent to 39 per cent) and the percentage of teachers and professors has more than doubled (from 12 per cent to 25 per cent). In addition, since the late 1960s, the number of senators with military experience has dropped dramatically (from 50 to 10).

Figure 5: Number of Former Provincial Politicians in the Senate

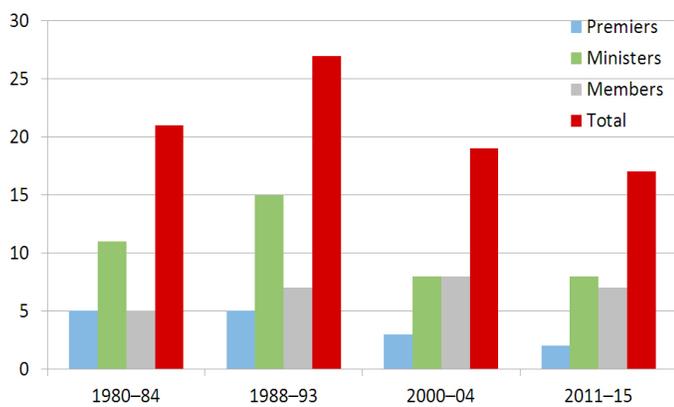


Figure 6: Regional Origin of Former Provincial Politicians in the Senate

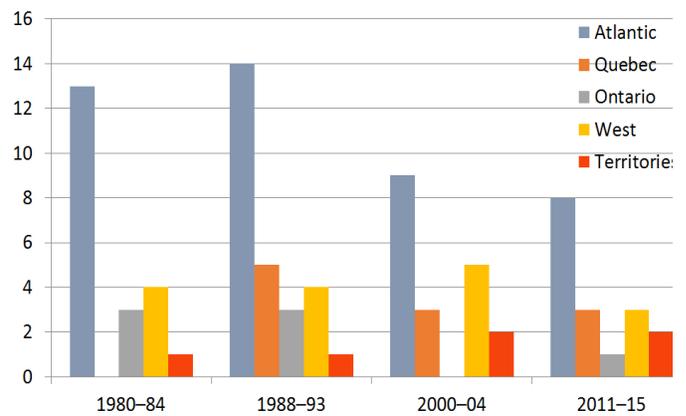
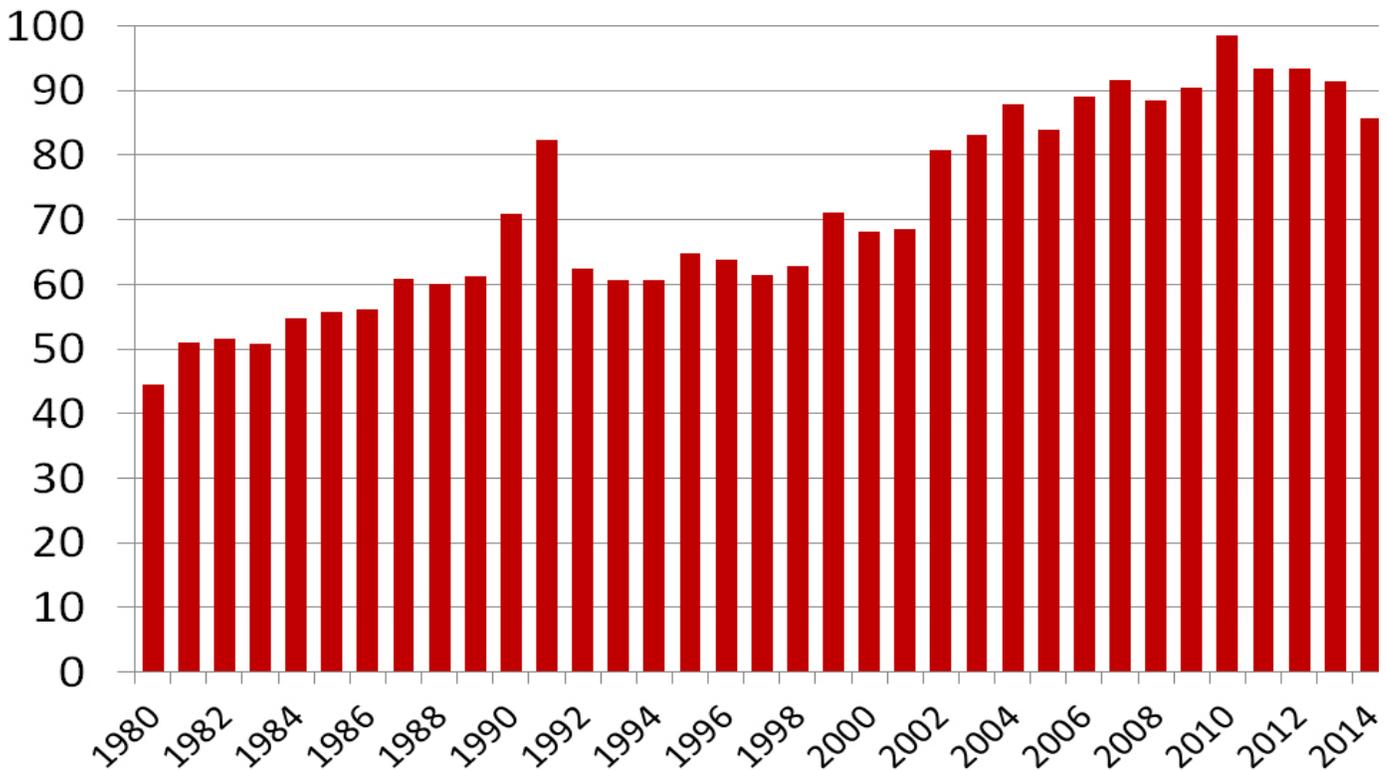


Figure 7: Cost of the Senate, 1980-2014 (\$ millions – 2015 dollars)



Representation of linguistic minorities has been a perennial concern of Canada's prime ministers and here the figures speak for themselves. Between 1963 and 2006, no less than 17 per cent of Senate appointments went to individuals from official-language minority communities: 15 out of 56 appointees from New Brunswick and Nova Scotia were Acadian, five out of 57 from Ontario were Franco-Ontarian, five out of 64 from the West were francophone, and 18 out of 76 from Quebec were anglophone.⁸ In this respect, the Harper era was a clear break with the past, revealing less concern for representation of official-language minorities. From 2006 to 2015, only one Acadian and two Anglo-Quebeckers were appointed, making up just three of 57 appointments, or five per cent of the total.⁹

Senate business

MPs and senators were compensated equally from 1867 to 2001. The basic sessional allowance for senators is now \$25,000 less than that for MPs. The total cost of the Senate in constant dollars has increased, peaking in the early 1990s owing to the appointment of eight additional senators.¹⁰ The cost has decreased in recent years as Prime Minister Harper declined to fill vacant Senate seats after 2013 (Figure 7).¹¹ The number of Senate sittings has remained well below the number of House of Commons sittings, but has stayed steady overall, while the House sits less often than in the past (Figure 8). The indicators for Senate committee activities, available only since the early 1990s, have varied substantially from year to year, without revealing a clear overall upward or downward trend.¹²

Figure 8: Sitting Days of Each House of Parliament in Each Calendar Year, 1980–2014

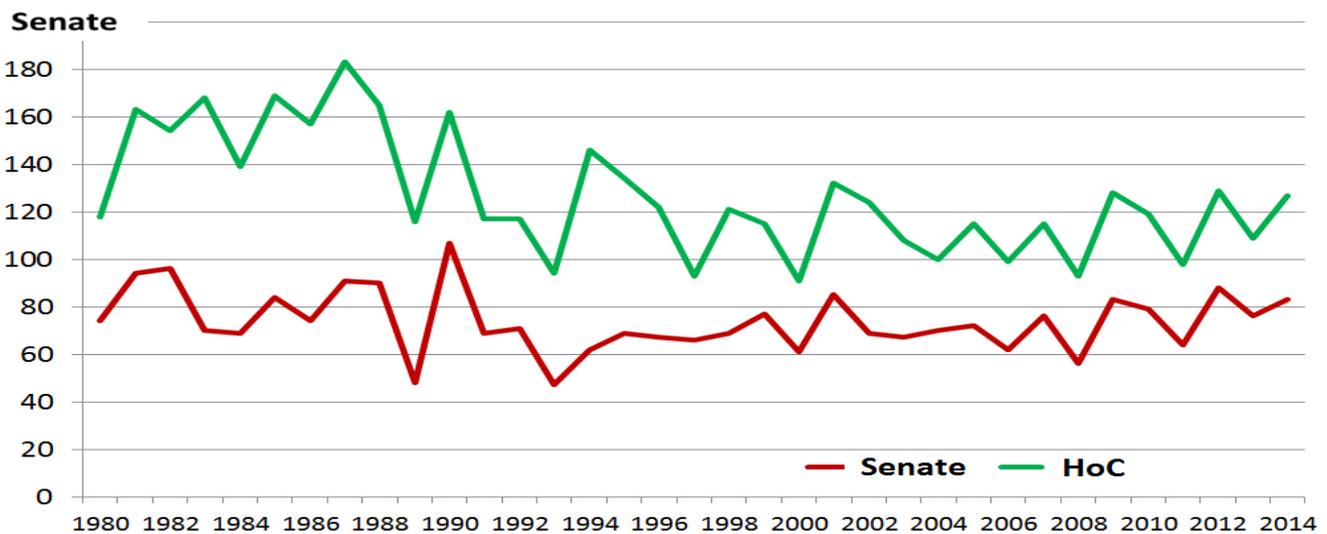


Figure 9: Bills Amended by the Senate

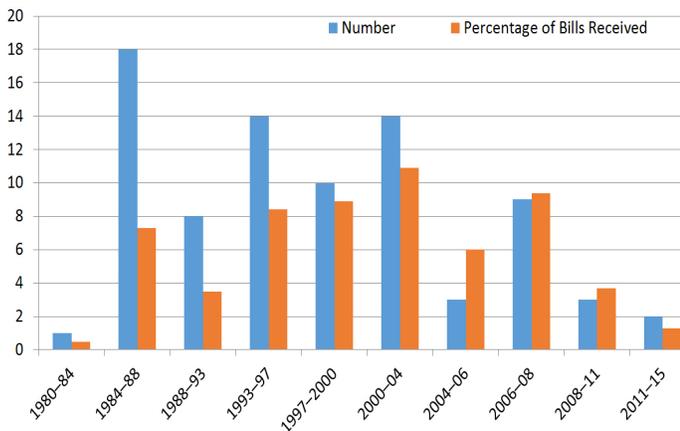
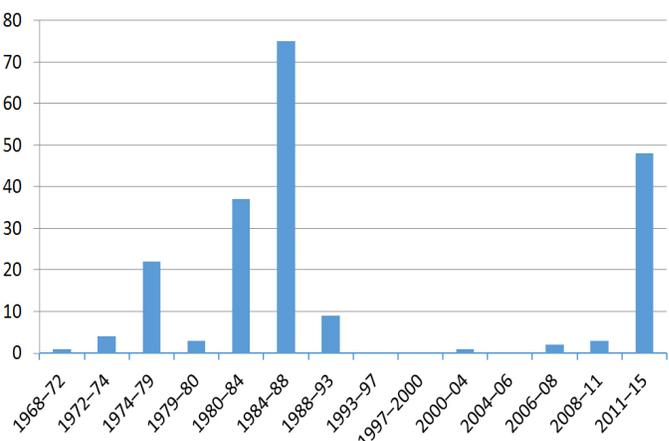


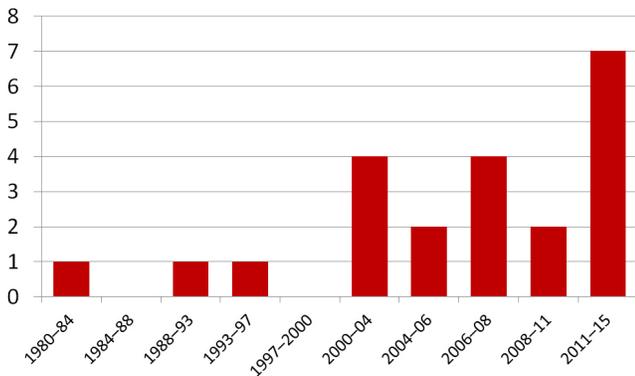
Figure 10: Senate Pre-study of Bills, 1968–2015



The Senate's impact on the legislative process

The number of House of Commons bills amended by the Senate was insignificant under the second Trudeau government, but has increased since then, especially (but not always) during periods when the Senate was controlled by the opposition. As a percentage of the overall legislative agenda, Senate-amended bills have scarcely exceeded 10 per cent, and this figure dropped considerably during the last parliament (Figure 9). Pre-study of bills, an ingenious procedure that allows the Senate to suggest amendments to the Commons before a bill has officially been sent to it, has been used unevenly. Pre-study was very popular in the 1980s and was formally added to the *Rules of the Senate* in 1991, but fell into disuse thereafter, only to be revived while the Harper government had a majority in the Commons (Figure 10). More private senators' bills have been passed since 2000, but this number has remained modest overall (between zero and seven per parliament) (Figure 11), and most of this legislation was symbolic in nature. However, it is worth noting the success of the Gauthier official-languages bill in 2005.¹³

Figure 11: Number of Private Senators' Public Bills Enacted, 1980–2015



Conclusion

In summary, over the past 30 years, the Senate has become more representative of Canadian diversity in the sociological sense. Women, Aboriginal people and official-language minorities are represented in greater numbers in the Senate than in the House of Commons. These are the principal gains of this period. Has this progress helped improve Canadians' perceptions of the Upper House? That seems doubtful. A comparison of opinion polls conducted on the future of the Senate since 1983 shows that far fewer respondents support the status quo today (5 per cent) than 30 years ago (28 per cent).¹⁴ However, Canadians remain split between abolition and reform.

Notes

- 1 *Reference re Senate Reform*, 2014 SCC 32.
- 2 The Senate's veto on constitutional matters became suspensive under the Constitution Act, 1982, and the number of senators was increased to 105 when Nunavut was created in 1999 through ordinary legislation. The list of failures includes the attempt to reduce the Senate's legislative powers (1985), the Meech and Charlottetown accords, and Prime Minister Harper's repeated reform efforts (2006–2014).
- 3 The new government has ruled out constitutional reforms and proposed the creation of a non-partisan advisory board to screen candidates.
- 4 Louis Massicotte, *Le Parlement du Québec depuis 1867*, Quebec City, Presses de l'Université Laval, 2009.
- 5 One example is the Senate pre-study of bills. Another dates back to 1934, when the Senate acquired an important role in private legislation by declining to increase the fees for introducing such bills, unlike the House of Commons, and becoming the preferred house for originating private legislation. See Robert Marleau and Camille Montpetit (Eds.), *House of Commons Procedure and Practice*, 2nd Edition, 2009, Chapter 23, Note 4, and R.A. MacKay, *The Unreformed Senate of Canada*, Toronto, McClelland & Stewart, 1963, p. 86.
- 6 For a recent overview, see Louis Massicotte, "Le Sénat et son rôle dans la fonction législative," pp. 145–175 in Nelson Michaud (Ed.), *Secrets d'État? Les principes qui guident l'administration publique et ses enjeux contemporains*, Quebec City, Presses de l'Université Laval, 2011.
- 7 Most of the figures accompanying this article were prepared using data from the Parliament of Canada's PARLINFO site at <http://www.parl.gc.ca/parlinfo/default.aspx?Language=E>.
- 8 Louis Massicotte, *Possible Repercussions of an Elected Senate on Official Language Minorities in Canada*, Report prepared for the Commissioner of Official Languages of Canada, March 2007, pp. 13–17.
- 9 Senators Fabian Manning and Larry Smith resigned from the Senate in 2011 to run unsuccessfully in the federal election and were subsequently reappointed to the Senate, bringing the total number of appointments made by Prime Minister Harper to 59.
- 10 Source: Public Accounts of Canada.
- 11 As of November 18, 2015, the Senate had 22 vacancies.
- 12 Source: Senate annual reports on activities. The author wishes to thank Charles Robert, Clerk of the Senate, for providing data.
- 13 Massicotte, *Possible Repercussions of an Elected Senate on Official Language Minorities in Canada*, p. 7 sq.
- 14 Éric Grenier, "Canadians want to reform or abolish Senate: polls," *The Globe and Mail*, May 30, 2013.