

Our Senate Must Maintain its Independence

Senator Nancy Bell

The general object of the Canadian people should be to strengthen the representation and defend the authority of Parliament. That object involves the whole political and partisan system of government. It is a question of attitude, not structure. The first foundation of our system depends upon the confidence of the governed in the integrity and wisdom of the governors.

Implicit in the work of the Special Joint Committee on Senate Reform was the notion that Senate reform is required. I do not agree that any sweeping change is required, but I do have a recommendation concerning the method of selection of senators.

Canada is a constitutional monarchy and therefore it is essential to distinguish between the authority of the head of state and that of the head of government. One holds power, scarcely ever exercising it: the other exercises power with the consent of the electorate. Failure to make that distinction is at the root of some of our difficulties, in that we have allowed an imbalance to arise between the retention of authority, in the monarch, and the exercise of authority, by the government.

Some critics question the legitimacy of the Senate, saying it is a non-elective body; such criticism illustrates their failure to understand the distinction between the retained authority residing in the monarch and the executive authority delegated to the government. We need to contain, restrain and check the growth of executive power and restore balance to the system of government. This is not an object mentioned in the government's green paper on Senate reform.

In our Parliament the Senate must maintain its independence; it must be judicial in character and objective in function. Any sins of the Senate may be traced, usually, to the intrusion of partisan attitudes. In Senate committees, whenever partisanship is absent, our impartiality is recognizable and the objectivity of our reports has often been praised.¹ The Senate was intended to look at legislation and legislative questions in a thoughtful way, seeking to resolve problems and thus be politically effective.

We need a determination to reduce inflammatory partisanship, we need to deal with issues on their merits, we need to debate from the viewpoint of broad experience. That is a matter of attitude.

Ann Elizabeth (Nancy) Bell of Nanaimo, British Columbia, was called to the Senate, October 7, 1970. This is a revised version of an address given to the Special Joint Committee on Senate Reform, October 18, 1983.

Senators must discern the merits of each issue before them, as an independent body, avoiding a party political approach to the issue.

Desirable qualities for the work to be done are knowledge, experience and wisdom, not driving ambition or quantity production. Senators must be people of exceptional experience, chosen for their knowledge of and standing in the community, for their ability and their maturity. They should come from many and diverse backgrounds. They must take regional and provincial needs into account, but must decide issues always in the national context. Only where partisan considerations have intruded does this not hold true of the present Senate today.

The provincial governments must bear a great deal of responsibility for the criticism of the Senate. A provincial government is just that — *a government*, not a province. Governments deal with governments, especially in our first ministers' conferences. Power goes where power is, and that is where provincial governments want to be.

The Senate is a legislative but not an executive body. The Upper House must always be a protection for the people against any over-exercise of state power, it must be a bulwark of our parliamentary democratic system. There is absolutely no reason why a provincial government should not be able to discuss its problems with Senators. As far as I know, there is no provincial government in Canada that calls upon its Senators and sits down with them to find solutions to problems. Many non-partisan things certainly could be talked over, but they are not. A change in provincial attitude would improve the regional effect of the Senate.

Another serious defect results from the influence of the government, which is becoming ever more pervasive, in the affairs of the Senate. It appears to me that this indirect interference, with acquiescence on the part of government supporters in the Senate, no longer is content to achieve its ends merely for approval of legislation. It now seeks to influence the process by which study and debate of legislation is dealt with. This is reflected through the committee system, the ordering of Senate business and almost innumerable small ways by which these games are played. The odds have become unbalanced. One result of this is that Question Period, albeit a necessary function whereby Senate members of the Cabinet are called to account, has become more disorderly. The very nature of Question Period escalates the partisan conflict, which has no place in the Senate. That is not what the Senate is for despite a temporary accommodation to those circumstances caused by the distribution of party membership in The House of Commons. Therefore a changed structure is not the solution.

Some Practical Solutions

There are some practical steps which could help us attain a more independent Senate. I suggest that our Senate officers be selected by and be answerable to the Senate.² The Leader of the Senate should be outside the cabinet and should draw up our legislative timetable. If there is a special government representative in the Senate, that person should have a different position, from that of Leader.

I think we should draft Senate bills arising from our committee reports. Perhaps we should reduce or refuse supply, where the government does not act to rectify mistakes. Vacancies in the Senate should be filled more quickly as we have many committees and need a full membership in the Senate to fill our committee responsibilities.

On the point of our having a Senate press relations officer, we must remember that the Senate is a workshop. It is not a stage; we are not really out there to publicize ourselves. With Senators, it is a question of addressing each legislative issue, and not the voters. With cabinet ministers in the Senate, the press is more interested in them than in what work the Senate is doing for Canada.



Nancy Bell

An Elected Senate?

Should the members of the Senate be elected? I believe nothing would be gained, and much lost, by changing to a system in which both the House of Commons and the Senate would be elected, merely dividing the elected representatives of the people into two chambers.

One drawback of an elected Senate is that we would lose the advantages we have at present within the appointed chamber — the opportunity to select and gain those people Parliament needs from the arts, the sciences, from the universities, from business, industry and agriculture.

Another drawback to an elected Senate is that it might result in an intrusion of provincial partisan influence. The Senate we have

today is so structured as to ensure representation from all regions of Canada. If we examine the work done, the contribution of Senators in Committees and in House debate, the many motions and amendments that Senators put forward, we see that very often the attitude of Senators is based on extensive regional knowledge. Of course, the Senators are bringing their regional viewpoints to the general national outlook, which is the way it should be. The Senate is an ideal body to carry out non-partisan inquiries and objective approaches to regional problems.

My recommendation concerning the method of selection of Senators is that they be chosen by Her Majesty the Queen. Her advisers on this matter could become a special Privy Council, and could include lieutenant-governors or others of her own choosing. Another selection method would be for the Governor General to act for Her Majesty — he does so at present — and actually select the Senators. That method would be satisfactory to the Canadian people, as long as it is accepted that the Governor General is responsible to Her Majesty alone.

Another possible method of selection would be for the Prime Minister to continue recommending persons for appointment to the Senate, but with a broader advisory committee, which might even include the lieutenant-governor of a province. In each province, the lieutenant-governor is, I believe, the best-informed person one could hope to meet.

Conclusion

A very valuable argument for the retention of the Senate as an appointed non-elected body is that put forward by a British historian, Lord Beloff.³ Writing in the *Times*, he says the Senate represents the belief that in a balanced constitution there should be an institution which does not owe its whole being to the device of popular election. If there is to be stability there must be room for institutions expressing continuity as against the ebb and flow of opinion.

Some of our best Senators were previously elected members of provincial assemblies or of the House of Commons, and many were cabinet ministers or leaders of parties. We could not do without their expertise. Once they are called to the Senate, they have to achieve a more judicial stance. It may seem difficult but the effort must be made to think of the Canadian people as a whole and not only of the political party to which they belong.

That would give Canada one House of Parliament, the Senate, free from executive shackle. Senators would have no doubt as to where, and to whom, their duty and their loyalty lies, and their impartiality could not be called into question. Parliament would be truly strengthened in representation and enhanced in authority.

Notes

¹ The Kent County inquiry and the Northern Pipeline inquiry are examples of studies conducted by the Senate through its committees.

² The Governor General in Council appoints the Speaker of the Senate, the Clerk, and the Gentleman Usher of the Black Rod. In the House of Commons the Speaker is chosen by the House.

³ Baron Beloff, a life Peer, of Wolvercote, Oxford County.