

Democracy isn't just elections

By Brian Lee Crowley, The Ottawa Citizen

Prime Minister Stephen Harper's appointment of three defeated Tory candidates to the Senate has reignited calls for reform of Parliament's upper house. I sympathize. But most of the reform ideas out there are, to put it diplomatically, half-baked and would leave us in a worse position than we are in today.

Take the idea of electing senators. Sounds great. Who could be against more elections?

Well, after four elections in about eight years, Canadians recently voted to have fewer elections (by choosing a majority government), rather than more.

Moreover, the idea that power should only flow from elections is quite wrong. We don't elect judges to the Supreme Court, and there is hardly a more powerful body in the land than the Supremes. It is true that some states elect judges in the U.S., but this is one of the least attractive features of U.S. democracy, and one that has been carefully avoided in Washington.

In Canada, by the way, judges are selected by pretty much the same process as senators. And we do it that way to try and insulate judges from the pressures of politics, the passions of the moment. We want them to take the long view, exercise their best judgment, to think about the law and not their popularity.

That was what the Fathers of Confederation were trying to create with the Senate. They wanted thoughtful distinguished people, drawn from every part of the country, to be part of the deliberations over what laws Canada should have. The Commons has to listen to what the Senate has to say, but the Senate must ultimately bow to the democratically chosen Commons if they can't resolve their differences.

And while it is easy to become caught up in the revulsion Canadians feel at abuses like absent senators, or unsuitable appointments, as an institution, the Senate does what it was intended to do, and does it fairly well.

Senator Michael Kirby chaired a Senate committee on the future of Canada's health care system that delivered the most thoughtful and articulate report on the topic that this country has seen in 30 years.

No Commons committee could have done it, because the parties play too much politics with health care. Indeed the Kirby Report was infinitely superior to the one produced at about the same time by the Royal Commission under former Saskatchewan premier Roy Romanow.

Senator Colin Kenny and the committee on national security and defence he used to chair probably did more to raise the profile of issues affecting the safety and security of Canadians than almost anyone else in Ottawa.

The Senate held up the unpopular GST, prolonging an important national debate, until prime minister Brian Mulroney acted to ensure that the will of his democratically elected government prevailed over the Senate's opposition. Ironically, at the time, Mulroney was attacked for "undemocratically" overriding the unelected Senate -the exact reverse of the truth.

That idea of the country's democratic will prevailing is a key one that too often Senate reformers slide over. Elected senators would have their own individual mandate, and there would be little reason for them to defer to the Commons. But only the government in the Commons can claim to have a mandate given by the country to pursue their program. Only MPs must periodically submit themselves as a body to the judgment of the electorate.

A lot of people think democracy just means getting elected in the first place. Real democracy, though, is when the electorate gets a chance to pass judgment on what the government does with the power it is given. The essence of democracy is about accountability. But the Senate reform being proposed by the government, for example, would create an elected but democratically unaccountable Senate.

Individual senators would be elected and sit for long fixed terms. The Senate as a body would never have to meet the electorate as a whole so that the country could pass judgment on their actions as an institution. The non-accountable nature of the Senate doesn't matter when senators must give in to a determined Commons. But having a Senate with powers essentially equal to the Commons' that doesn't have to give way and with no formal mechanism for resolving disputes is a formula for deadlock, not democracy. Democracy means that governments are given power to act in the national interest and then must submit to the judgment of the electorate when their mandate is over.

The paradoxical result, at least where the Senate is concerned, is that more elections mean less democracy. That could be fixed, but only if we were willing to reopen the Constitution to do a proper job of reform. Based on our past experience, that would be a cure far worse than the disease of the current Senate.

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