Senate

The Senate is the Upper House of Canada's two-house Parliamentary system. Created by the *Constitution Act, 1867*, the Senate was created as a place of "sober second thought" to carefully examine legislation before it becomes law. It is made up of 105 members that are appointed by the Governor General, on advice of the Prime Minister, based on regional representation and other individual requirements. Once appointed, senators hold their seats until age 75.

The Senate provides sober second thought to the House of Commons by reviewing its legislation and by creating senate committees that examine important national issues such as unemployment, land use, poverty and Aboriginal issues. The Senate may also introduce private bills and public bills that do not involve spending public money. It may also veto bills from the House of Commons, although this power is seldom used.[1] Senate committee reports often lead to important considerations in government policy or legislation. For example, in 2011 the Senate committee on Aboriginal Peoples released *Reforming First Nations Education: From Crisis to Hope*, advocating for a complete overhaul of First Nations education in Canada.[2] In 2014, the Senate committee on Legal and Constitutional Affairs examined amendments to the *Fair Elections Act* to prevent unfair campaigning.[3]

The Constitution defines the scope of the Senate's role and powers. It states that senators are to be appointed based on regional representation and that they meet individual requirements. Twenty-four senators must be from each of Ontario, Quebec, the Maritimes and the western provinces. Six senators must be from Newfoundland and one senator must be from each territory. A senator must be a Canadian citizen and be at least 30 years old, own land worth at least $4,000 and, in the case of Quebec, own land within the province. Senators must have at least $4,000 and live in the province or territory they represent. Senators usually affiliate with a political party although some may choose to sit as independents.[4] They are also unelected.[5]

Canadians have debated the Senate's structure and purpose since its creation, and in recent decades they have questioned its existence.[6] Many consider the Senate to be a place of unfair patronage and privilege. The Liberal government tried to reform the Senate in 1978 but they were unsuccessful. Another push failed again in the constitutional debates of the late 1980s during the Meech Lake and Charlottetown Accords. In October 2013, the Conservative government asked the Supreme Court to clarify the process of Senate reform. In *Reference Re Senate*, the Court ruled that major changes to the Senate require the use of the Constitution's **amending formula** and that the federal government must consult the provinces.[7]

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[1] Richard Foot, "Senate," *The Canadian Encyclopedia* (June 19, 2014), online: Historica

Canada <http://www.thecanadianencyclopedia.ca/en/article/senate/>.

[2] The Standing Senate Committee, "Reforming First Nations: From Crisis to Hope," (December 7, 2011), online: Parliament of Canada < http://www.parl.gc.ca/Content/SEN/Committee/411/appa/subsitedec2011/home-e.htm>.

[3] JM Bryden, "Senators to Recommend Changes to the *Fair Elections Act*, online: Canadian Press http://www.macleans.ca/politics/senators-recommend-nine-major-changes-to-fair-elections-act/.

[4] *Constitution Act, 1982*, Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

[5] *Reference re Senate Reform 2014* SCC 32 at para 14 .

[6] Robert A MacKay, *The Unreformed Senate of Canada* (Toronto: McClelland and Stewart, 1963), at 38.

[7] *Senate*, *supra* note 5 at 103.