

The unelected Senate offers a check on the tyranny of the majority

By William Gairdner

In the long Western tradition, the changing conceptions of what a Senate ought to be are intimately related to changing conceptions of human nature, and serve as a kind of mirror in which to see ourselves.

The senates of ancient Greece and Rome, despite their differences, shared an underlying classical model of human nature considered universally true: human beings are wilful and impulsive, and therefore prone to error in the measure that their actions are heated and hasty. For the pagan, this was an eternal truth of human nature. For the Christian, human beings, though once perfect in Eden, fell into sin through disobedience to God. Common to both pagan and Christian, however, was the commonsensical belief that will originates in the 'appetitive' parts of the body, whereas reason originates in the mind, or head.

Accordingly, the traditional Western image of humanity has been of divided beings forever tormented by a lifelong internal struggle between two internal forces - will and reason - each vying to be master of the whole person by making the other a slave. As it was for the body, so it should be for the body politic. The architects of the ancient democracies felt that public passions ought to be acknowledged and heard, but never granted control of the body politic. In the Greek democracy under Demosthenes, the senate (called the boule, and appointed by lot) set the legislative agenda for the people, who were expected to discuss and vote on those laws. But the majority of laws originated with the senate and were sent down to the people, rather than the other way around, as in the modern democracies.

For the founders of Canada and the United States, this duality was accepted as an obvious fact of personal and political life: When acting without sufficient experience or reflection, individuals and their factions in a legislature will tend to behave emotionally according to selfish interests and will seek to crush minorities and weak regions. Hence, the ideal was that an appointed upper house, or senate - filled with mature, experienced people who have a stake in the country but are untouched by party - ought to have the final say over the will of the people. In our tradition it has been widely accepted for centuries, but forgotten in periods of ecstatic celebration of individual will, that to omit such a check on the impulsivity of the people is to render them slaves to their own passions.

In periods of high skepticism concerning natural goodness, the safety check of an appointed senate is called for to protect democracy from its own passions. Restraint is the cry. Conversely, in a liberalizing period such as our own when there is a widespread desire for the full expression of personal appetites, we hear loud cries for the abolition of senates, because they are widely viewed as an intolerable brake on the pure will of the people. Freedom from restraint is the cry.

Since the Romantic period of the late 18th century, which insisted on the natural goodness of human nature, the historical trend has been to dissolve or discount this dualistic metaphor of master and slave because when human passions and appetites are considered good in themselves there is said to be no need for restraint. Social and moral examples of this liberalizing trend are such as our present release of restraints on divorce, homosexuality, pornography, abortion and euthanasia.

Our private bodies are now almost wholly unrestrained. It requires but one more step in the logic of unrestraint to dissolve the same dualism in the larger public body: once the people accept the notion that their will is an unalloyed good, it follows that as they can no longer be duped by their own passions - enslaved to themselves - there is no need for a senate to check their will.

In June 2013, Preston Manning published an open letter to Canada's senators in the *National Post*, in which he opined that 'the greatest weakness of the Senate as presently constituted is that senators are unelected and unaccountable to electors. The Senate lacks the democratic legitimacy required to command public support.'

If we accept the view that the will of the people is always good (because the people are naturally good), then he is right on, as they say. But if we accept the view that the will of the people is improved by restraint; that at the end of the day reason ought to be the final arbiter of will, then such a view is upside down, and the reply ought to be: 'the greatest strength of the Senate is that senators are unelected and unaccountable to the electors. The Canadian Senate has the legitimacy required to command public support precisely because it is not democratic, and was never intended to be.'

The latter position seeks to avoid the conflict of democratic legitimacy that inevitably arises whenever there are two elected bodies, each vying to represent the true will of the people (as presently displayed in American-style political gridlock), thereby to preserve what has historically been considered the proper relationship between reason and will. Are we prepared to abandon the master/slave metaphor central to our tradition?

The weakness in the call to abandon it is that elected senators will immediately become slaves to the will and appetites of the people who elected them. The weakness of the case for preserving it is the apparent paucity of senators of sufficiently high character to refuse the corruption of their own selves, thus to become slaves to their own appetites.

This is the mirror in which we are reflected.

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