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The Hill Times, January 22nd, 2007
LEGISLATIVE PROCESS
By Bea Vongdouangchanh

Tories expect 'showdown' on Senate reform

Pollster Nik Nanos suggests Prime Minister should 'temper' Senate reform initiatives as a minority government leader

As **Stephen Harper** promises to turn his prime ministerial attention to Senate reform in this winter session of Parliament, some are predicting a "showdown" in the Upper Chamber.

"I think it will be a key issue, because there are two bills sitting on both ends of the Parliamentary spectrum," Saskatchewan Tory Sen. **David Tkachuk** said, referring to bills C-43, Senate Consultations, and S-4, Senate Tenure. "I think it will be very important. I think there will be a showdown on the tenure part of it because it's been sitting around since last spring in the Senate chamber."

Sen. Tkachuk, who expects Senate reform to be a top issue when Parliament resumes sitting on Jan. 29, said that the Liberal-dominated Senate is stalling Bill S-4, which would limit Senators' terms to eight years, because the bill has not even received second reading after a special committee studied its subject matter last fall. The committee tabled a report in the Senate and supported the bill, said Sen. Tkachuk who sat on the committee, but the Liberals now want to study it again. "We would never have agreed to the first committee if we knew they were going to study it at a second committee," Sen. Tkachuk told *The Hill Times*. "What's the point of it all, right? So, that's where it sits. There's no question in my mind that they are stalling this bill and they have their own problems in their own caucus. I think they're fighting like cats and dogs on this and other matters of course, but this is definitely one of them."

British Columbia Liberal Senator **Jack Austin** denied Grit Senators are stalling the bill, describing the accusation as "classic." Declared Sen. Austin: "It's textbook Government 100," adding that they are taking into account all aspects of the bill.

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Sen. Austin agrees with fixed-term limits for Senators, but said the proposed eight-year terms, under Bill S-4, is too short. Sen. Austin said the term should be 12 years in order that Senators outlast Prime Ministers of the day in office. This, he said, would prevent governments from appointing Senators for only the duration of the government's term to help pass legislation.

"Theoretically, if it was only eight years, a Prime Minister could fill the Senate with partisans of his choosing and there would be no opposition or no viable opposition. One of the values of the present system is that no Prime Minister can appoint the majority of Senators, never mind all of them, because the average tenure in the Senate is 12 years," he said.

Furthermore, Sen. Austin said, the terms should not be renewable as they are under S-4. "There's huge objection to that because of the belief that it would interfere with the independence of Senators. They would be nice to the government looking for a re-appointment. Therefore, the mood in the Senate is a fixed term of 12 years, that's it," he told *The Hill Times*. "What's critical in the Senate is that Senators have institutional memory. They're here long enough to know how the system works and what the old arguments were, because old issues come back. It's sort of like a roulette wheel. You start with an issue and it goes around and permeates in different ways and then a decade later, it comes back to the starting point and so you learn a lot about issues in a 10-year period. Eight years, well it takes four years for a Member of Parliament to really be comfortable in that responsibility and then you want to get some value for that educational startup."

While the government is making Senate reform a key issue in its mandate, SES Research pollster **Nik Nanos** said it's surprising the Conservatives are going after it so aggressively because Prime Minister Harper (Calgary Southwest, Alta.) only has minority power. "This is something one would expect from a majority government that made it a major plank during the election," he told *The Hill Times* in an email. "One thing we do know from the polling is that the Harper Conservatives won the election primarily because Canadians were angry with a tired Liberal government and were willing to try out Stephen Harper. Even if the Conservatives think they won a mandate on their platform, the fact that they did not come close to forming a majority should temper their initiatives as a minority government."

Mr. Nanos also said that Senate reform is not an election issue. "From a research perspective, Senate Reform has always been more of a hot-button issue among Western Canadians. For example, many of the supporters of the old Reform Party and its successor the Canadian Alliance were quite strongly in favour of Senate reform," he said. "Once we get outside of the West, the appetite for reforming the Senate, which many Canadians see as 'code' for opening the Constitution, is quite weak. Even though some Canadians may support the principle of Senate reform, the devil's in the details. Any government which moves to dilute representation in Ontario and Quebec, who numerically make up two thirds of the Canadian populace, would very likely face a political backlash."

Moreover, Mr. Nanos said that Mr. Harper's engagement in Senate reform is a "distraction" from some of the government's current "strengths," for example, accountability, tax relief and good government. "It's politically risky to engage in a complex issue such as this where there is really no consensus as to what Senate

reform really means," he said. "Part of the current vulnerability of Harper's approach is that the government has not clearly articulated their long term vision of the newly reformed Senate, how it would work, what its new roles in our democracy would be. In my experience it's difficult to rally public support around an issue unless there is a clear sense of the final destination and the overall plan."

Sen. Austin agreed, saying that the Senate has never been a significant public policy issue for Canadians. "It's an elitist issue driven by a few people. It doesn't mean that it's not a valid issue to be raised, but I don't think it's going to be a political issue for the next election," he said.

Meanwhile, Sen. Tkachuk said it's time to make changes despite what some people think is "code" for opening up constitutional talks. "This is the 21st century," he said. "The idea that we're still appointing members to govern the country is, well, it's ridiculous. I think people should be elected."

Sen. Tkachuk said people use the Constitution card because it's a way of stalling progress. "On the term limit itself, almost all the constitutional experts that came before us said it does not require a constitutional amendment, that if the House passes it and the Senate passes it, it's a done deal," he said. "There is no question to the advisability—the PM can get advice from anyone he wants. If he wants to get it from the electorate, he can. In the end, he gets to appoint the people. It's not a direct way to elect Senators, but at least it's a better one than before."

With these two steps underway, in time, provinces will want to get together to discuss changing the constitution to make further steps on reform, Sen. Tkachuk said. "Until then, there'll be no negotiation," he said. "I mean, Quebec will not support anything from ground zero, but once they find that there's going to be elected senators anyway, I'll tell you one thing, they're going to want to come to the table before it gets out of hand. So my view is the only way real reform will take place in the upper chamber is Harper's approach, which is, 'We've tried all the other stuff for 139 years' so yes, I think these two things will move them along. On their own they're good pieces of legislation. If nothing else happens, it will [still] be a good thing."

Sen. Austin said all of the consequences have to be measured first because no one really knows what the impacts of the system change would be. "We have academics that have offered fascinating views on the impact and their studies have to be looked up," he said, adding that there's no reason to rush into change. "The country does not have a bad governing system. Maybe we can improve it, but the country does not have a bad governing system at this stage so there's no urgency. There's a need for active forward moving attention to the issue, but there's no time limit on when something has to be decided except Mr. Harper's political agenda. The political agenda of any government, any government, should not be determinative of how the country is run."

Even though he believes in an elected Senate, Sen. Tkachuk, whose term ends in February 2020, said he would not resign and run in an "election" if C-43 passes. "You know when I'll resign? When every last Liberal resigns," he said in response. "People always ask that of Conservatives and people who support Senate reform, but I don't see the point of me resigning and everyone else staying there. My argument has always been that this bill is a grandfather bill and I think that's good because what it does is there'll still be some corporate memory which I think is very

important. It will be a slow transition to an elected Senate and I think that's a good thing. Otherwise, there is no corporate memory and there's no memory of how the Senate operates and what it does. I think the idea of electing senators as senators resign is a good thing. I think it will put pressure on Senators who are there to give up their seats and resign. It won't happen immediately but it will happen."

Sen. Austin said he's open to the idea of an elected Senate for a greater regional presence at the federal level, but said at his age, he would not want to run in an election if C-43 passes. Sen. Austin is due to retire on March 1 after serving in the Senate for almost 32 years.

Another issue to look at, however, is the type of people who would run for an elected Senate seat, Sen. Austin said. Running for a seat in the House of Commons as an MP with a mandate from 150,000 people is different than running for one of three vacant seats in a province where your constituency is potentially millions of people, he said. "Only rich people can afford to write \$200,000 \$300,000 cheques to run with every voter in a province," he said. "Who's thought about the practical issues before we pass something in theory?"

In terms of how successful Senate reform will be this session, both Sen. Austin and Sen. Tkachuk said they don't know where it will go and it's up to newly elected-Liberal leader **Stéphane Dion** (Saint Laurent-Cartierville, Que.) to also put it on his agenda. Mr. Nanos said, however, that it's up to the Conservatives and how well they can manage the message. "It will be a political issue from the viewpoint that it will demonstrate how well the Harper government can manage the issue, the Senate and how the government works with other parties," he said. "The Senate reform journey will be yet another marker for Canadians to assess the job of Stephen Harper and his government."

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The Hill Times

STATUS OF GOVERNMENT BUSINESS

House of Commons

- S-2 Hazardous Materials Information Review Act (committee)
- C-6 Aviation Safety Bill (committee)
- C-7 Military Justice Bill (second reading)
- C-10 Minimum Sentences for Firearms Crimes Bill (committee)
- C-11 Transportation and Railway Safety Act (report)
- C-14 Adoption Bill (report)
- C-18 DNA identification Bill (committee)
- C-20 Airports and Transportation Appeal Tribunal Bill (second reading)