

# Loomis Chaffee Debate Tournament January 2022

## Resolved: That the United States Senate Should be Abolished

Note from the tournament organizer: **This debate is not about whether such a change is currently constitutional nor whether it is politically conceivable, but rather whether the abolition of the United States senate should be seen as desirable/beneficial for the USA – if a constitutional amendment is necessary to change the practice then, by fiat, that would be done to implement the change in policy advocated by the affirmative. A negative argument that the proposal is not constitutional or politically impossible to get passed is not an argument that the policy is not desirable.**

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**VOX. John Dingell: to fix Congress, abolish the Senate**

**The longest-serving member in the history of Congress has a big idea. By Dylan Matthews**

**dylan@vox.com Dec 4, 2018, 3:15pm EST**

John Dingell knows a thing or two about how Congress works. First elected to the US House of Representatives at age 29 in a 1955 special election, Dingell left office in January 2015, nearly 60 years later. The last president he served with, Barack Obama, was born six years after Dingell entered office. His tenure was the longest in the history of the House or Senate, outlasting stalwarts like Strom Thurmond and Ted Kennedy by more than a decade.

So his call to abolish the Senate, announced in an Atlantic excerpt from his new memoir, is pretty notable. He pairs the proposal with a set of more familiar, often vague good-government suggestions, like “the elimination of money in campaigns,” automatic voter registration, and “protection of an independent press.” Abolishing the Senate is far more specific and dramatic than the rest of his list. His argument is familiar, rooted in the institution’s failure to equally represent Americans regardless of where they live:

The Great Compromise, as it was called when it was adopted by the Constitution’s Framers, required that all states, big and small, have two senators. The idea that Rhode Island needed two U.S. senators to protect itself from being bullied by Massachusetts emerged under a system that governed only 4 million Americans.

Today, in a nation of more than 325 million and 37 additional states, not only is that structure antiquated, it’s downright dangerous. California has almost 40 million people, while the 20 smallest states have a combined population totaling less than that. Yet because of an 18th-century political deal, those 20 states have 40 senators, while California has just two. These sparsely populated, usually conservative states can block legislation supported by a majority of the American people. That’s just plain crazy.

Dingell is right: The Senate’s malapportionment is absurd and bad. And given how America’s political geography has developed in the past two centuries, it’s now a body in which white rural interests are privileged over those of black and Latino city dwellers, given how much whiter the median state is than the median American voter:

The senate considerably dilutes the voting power of African-Americans and Latinos and Asians to a degree that should be unacceptable in polite company

The Senate also introduces an unnecessary veto point blocking the passage of ordinary legislation. That’s bad for basically any party that gains the presidency, as presidents now typically enjoy only two years of control of both the House and Senate, in which they must attempt to pass their entire legislative agenda. Then the president’s party typically loses one or both houses of Congress during the midterms, and the result is gridlock until the next president takes office.

Even during the two years where a “trifecta” of one party controls the House, Senate, and presidency, the Senate filibuster makes passing that party’s agenda extraordinarily difficult. Big changes are increasingly confined to reconciliation bills just to avoid this hurdle.

That’s bad if you’re Donald Trump in 2017–2018, or Barack Obama in 2009–2010. But it’s also just bad for democratic accountability. People elect presidents with the understanding that they will actually accomplish what they’ve promised. A surfeit of veto points, many supplied by the Senate, makes that impossible.

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**Wikipedia Article: “Unicameralism”**

In government, **unicameralism** (Latin *uni-*, "one" and *camera*, "chamber") is the practice of having a single legislative or parliamentary chamber. Thus, a *unicameral parliament* or *unicameral legislature* is a legislature which consists of a single chamber or house.

Unicameral legislatures exist when there is no widely perceived need for multicameralism. Many multicameral legislatures were created to give separate voices to different sectors of society. Multiple chambers allowed, for example, for a guaranteed representation of different social classes (as in the Parliament of the United Kingdom or the French States-General). Sometimes, as in New Zealand and Denmark, unicameralism comes about through

the abolition of one of two bicameral chambers, or, as in Sweden, through the merger of the two chambers into a single one, while in others a second chamber has never existed from the beginning.

The principal advantage of a unicameral system is more democratic and efficient lawmaking, as the legislative process is simpler and there is no possibility of deadlock between two chambers. Proponents of unicameralism have also argued that it reduces costs, even if the number of legislators stays the same, since there are fewer institutions to maintain and support financially. Proponents of bicameral legislatures say that this offers the opportunity to re-debate and correct errors in either chamber in parallel, and in some cases to introduce legislation in either chamber.

The main weakness of a unicameral system can be seen as alleged lack of restraint on the majority, particularly noticeable in parliamentary systems where the leaders of the parliamentary majority also dominate the executive. There is also the risk that important sectors of society<sup>[specify]</sup> may not be adequately represented by the elected singular body.

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**LegislativeBranch.org - “The Real Purpose of the Senate: To Check the actions of the House”. - Article by James Wallner (Senior Fellow of the R Street Institute, Professor at Clemson University) December 6, 2018**

Niccolò Machiavelli was one of the principal architects of American constitutionalism. A heterodox thinker in his day, Machiavelli observed in his Discourses on Livy (1531): “Those who blame the quarrels of the Senate and the people of Rome condemn that which was the very origin of liberty.” In other words, the institutionalized conflict between the optimates and populares was essential to preserving the Roman Republic. Machiavelli was the first significant figure in the Western tradition to acknowledge the importance of conflict in sustaining a body politic. And his understanding of the relationship between conflict and political order would eventually influence the creation of the American Senate in 1787.

Yet most people today are unfamiliar with Machiavelli’s influence on the Senate. For example, consider the recurring debate over the institution’s undemocratic nature. Both critics and fans of the Senate assume it was created to serve the interests of the states qua states. Jonah Goldberg summed up this point recently asserting, “the Senate was created to represent the interests of the sovereign states.” The only issue of contention in the debate is whether one thinks this is a good or bad thing.

Yet the conventional wisdom is mistaken, and impedes our ability to assess of how the Senate at present is, or is not, working. The U.S. Senate exists for one overriding reason: to check the popularly elected U.S. House of Representatives. Throughout the summer of 1787, James Madison and his fellow delegates to the Federal Convention highlight, again and again, the Machiavellian observation that institutionalized conflict was essential to the preservation of the republic. Trying to inject an updated understanding of Machiavelli’s dictum into the heart of the new federal government, they created a Senate whose institutional features—size, membership-selection process, nature of representation, length of term of office, compensation—are properly understood only in relation to the body’s House-checking role.

If the Senate were going to check the House, its members could not be drawn from the same source. That meant senators could not be popularly elected. If they were, they would end up being subject to the same interests and passions as their House colleagues, gravely impairing their ability to be a corrective. According to Madison, “In the states where the Senates were chosen in the same manner as the other branches . . . the institution was found to be no check whatever against the instabilities of the other branches.”

Much less would the Senate be able to check the House if its members were dependent on the House for their seats, which was initially a feature of the Virginia Plan. Almost all of the delegates to the Convention opposed having House members appoint senators; the latter might feel beholden to the former. Connecticut’s Roger Sherman reflected their general sentiment, stating that he “was of opinion that if the Senate was to be appointed by the first branch and out of that Body that it would make them too dependent, and thereby destroy the end for which the Senate ought to be appointed.”

Once the delegates ruled out popular election and House appointment as being incompatible with the Senate’s checking role, having each state legislature choose that state’s U.S. senators was the only option they had left. Admittedly, both Madison and fellow Virginian Edmund Randolph originally opposed state selection, favoring instead the selection of senators by the House. Their reason was that state lawmakers were even closer to the people than House members would be. Consequently, allowing state lawmakers to select U.S. senators would readily carry the popular interests and passions into the Senate whereas selection by the U.S. representatives might do so to a lesser degree. The two men opposed popular election of senators as a recipe for bringing this ill-effect into the Senate quickest of all. Each option had its downside for Madison and Randolph. That they, in the end, set aside their qualms about state selection shows how paramount was the Senate’s checking role in their minds.

The delegates' desire to have the Senate check the House also dictated that it have a smaller membership than the House. They believed that there was something intrinsic to large legislative assemblies, separate and apart from the way their members were selected, that led them to conduct their business in similar ways. In Federalist 62, Madison observed,

The necessity of a Senate is not less indicated by the propensity of all single and numerous assemblies to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions . . . a body which is to correct this infirmity ought itself to be free from it, and consequently ought to be less numerous.

Similarly, Pierce Butler suggested that the Senate should be small enough "as to be exempt from the passionate proceedings to which numerous assemblies are liable." Butler's fellow South Carolinian, Charles Pinckney, was even more specific, arguing that "If the small states should be allowed one senator only, the number will be too great, there will be 80 at least."

North Carolina's William Richardson Davie summed up the problem such views created for those delegates who supported the allocation of Senate seats on a proportional basis:

Allowing the legislators to choose the Senate, and establishing a proportional representation in it, seemed to be impracticable. There will according to this rule be ninety members in the outset, and the number will increase as new states are added. It was impossible that so numerous a body could possess the activity and other qualities required in it.

As Davie surmised, the widespread opposition to a large Senate among the delegates precluded a Senate in which seats were allocated proportionally by population. Assuming each state was guaranteed at least one member, the total number of senators proportionally allocated based on population quickly surpassed the size with which the delegates were comfortable.

Madison hinted on June 30, 1787 that he could live with equal representation in the Senate. However, he argued that the delegates should take steps to make senators independent of the states if the convention adopted equal representation. In other words, Madison did not want senators to feel pressure to represent the states inside the federal government. The indirect mechanism by which popular interests and passions would enter the Senate could then lead senators to refrain from checking the popularly elected House. Madison predicted that failing to make the Senate independent of the states would turn the institution into "another edition of Congress" (that is, the Confederation Congress whose members were selected by, and dependent on, the state legislature that selected them).

Significantly, the small-state delegates agreed with Madison. The Convention's adoption of equal representation is what flies in the face of the assumptions of Goldberg et al today: Equal representation was intended to make senators independent of the states that selected them. The delegates approved longer terms for senators than what they had already approved and compensation out of the federal treasury. They also opposed making senators subject to instruction and recall by the state legislatures that selected them.

What is important is not that the Senate served as an institutional representative of the several states in the federal government as a result of state selection and equal representation. Instead, it's that a Senate so conceived would interact with, and counteract any unwise decisions by, the House. This, in turn, would help to control legislative majorities and frustrate presidential action. While the delegates did indeed disagree about how best to ensure that the Senate could check the House, all had this checking function in mind. It was crucial to establishing a new form of republican government that would be stable but flexible.

Taken separately, the House and Senate are imperfect institutions. But this is precisely the lesson that Madison and his fellow delegates took from Machiavelli. Taken together, the House and Senate are necessary ingredients for institutionalized conflict. They make possible a properly constrained Congress rooted in the consent of the governed.

Editor's Note: This piece first appeared in Law and Liberty on December 4, 2018.

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**The Nation November 12, 2021. "The Senate Cannot Be Reformed—It Can Only Be Abolished"  
The Senate is a deeply undemocratic institution where white power thrives and the popular will goes to die.  
By Elie Mystal/Twitter NOVEMBER 12, 2021**

The United States senate was a bad idea from the start. At the Constitutional Convention in 1787, populous states like Virginia supported the idea of a unicameral national legislature, with representation based on the population of each state. That's the kind of system one would expect in a representative democracy.

But less populous states like Delaware and New Jersey wanted a unicameral legislature in which all states would enjoy equal representation regardless of population, which is a system one might expect of a confederacy or a conglomerate of independent sovereign nations.

Instead of resolving the issue in favor of democratic self-government, the convention went for a compromise plan. There would be two houses: a lower house, or House of Representatives, in which representation would be based on

the population of each state; and an upper house, or Senate, in which all states would have equal representation. At the very heart of our Constitution is the idea that where people live matters more than what people want.

Nor was this the only antidemocratic feature of the Senate. As originally laid out in the Constitution, senators were appointed by state legislatures, not elected by the people (although “the people” at that point meant white male landowners, making the entire idea of democratic self-government a sick joke from the very start). It wasn’t until 1913, with the passage of the 17th Amendment, that voters finally got to choose their own senators.

An institution that is so profoundly antithetical to democracy cannot be “reformed,” however, simply by changing the method of picking its antidemocratic leaders. The Senate today is the place where the popular will goes to die. It is the place where 40 people can outvote 60. Its unearned nickname as the world’s “greatest deliberative body” was worth nothing when it came time to put country over party and convict a president for bribing foreign governments to dig up dirt on political rivals or for leading an attempted coup d’état. The Senate’s primary function is to do nothing, then congratulate itself for its restraint.

The Senate should be abolished. Perhaps the institution made sense hundreds of years ago, when regional differences within the incestuous cabal of white elites were critical enough to warrant an entire chamber dedicated to their vision of equality. But whatever justification might have existed in 1787 disappeared when it became an institution devoted to one region’s preservation of slavery in 1820. Once Senate representation became a race to preserve slavery; once states were admitted based on their likelihood to deny or uphold the rights of white men to own other people; once the Missouri Compromise called for the admission of “free” states and “slave” states in equal proportion to uphold the institution of slavery over the popular will, the argument that representation should be based on geography was shown to be nothing more than a tool of white supremacy.

And it still serves that essential role of propping up white power today. That’s just how the Senate works, in part because people of color are not spread evenly throughout the country. More Black people live in the five boroughs of New York City than all the people who live in the Dakotas. That these Dakotas get four votes in the Senate while Black New York City residents get, like, a 10 percent say in their state’s two senators is wrong on its face and offensively so. There’s no “good government” reason for this systemic unfairness.

There is a white-government reason, however. As we move ever closer to a majority-minority country, the Senate acts as a last line of defense for white people, a way for them to hold political advantage over everybody else. So long as white people continue to make their states unwelcoming to newcomers of color, they can be assured of an outside voice in the nation’s politics.

The astute reader will notice that I haven’t really talked about reforming the filibuster, a rule invented by senators to make their institution even less democratic than the Constitution requires it to be. But even filibuster reform won’t address the rot at the heart of the Senate. By 2040, it is projected that 70 percent of the country will be represented by just 30 senators, while the other 70 senators will give voice to the 30 percent.

And I can make a pretty educated guess that the overwhelming majority of senators will continue to be white, even as the country browns. Nearly 2,000 people have served in the Senate since its creation in 1789. Here’s a complete list of the Black ones: Hiram Revels, Blanche Bruce, Edward Brooke, Carol Moseley Braun, Barack Obama, Roland Burris, Tim Scott, William “Mo” Cowan, Cory Booker, Kamala Harris, and Raphael Warnock. That’s it—just 11 people.

You can’t reform a system that is committed to whiteness. Unless you’re going to force people of color to relocate en masse—and then let them vote once they get there—you can’t overcome the structural geographic advantages the Senate gives to white voters. The Senate needs to be abolished and replaced with a democratic institution of government. “One person, one vote” makes sense; “one state, two votes” never did.

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**THE WEEK – Oct. 29, 2021 -Ryan Cooper (Ryan Cooper is a national correspondent at *TheWeek.com*. His work has appeared in the *Washington Monthly*, *The New Republic*, and the *Washington Post*.)**

**“Abolish the Senate - The upper chamber has become the world's greatest obstructive body”**

Thursday morning, it appeared an agreement on President Biden's agenda was at hand. After seven months of slowly and agonizingly amputating many of the most popular items in the proposal — like paid family leave and prescription drug price reform — Biden announced his party would move forward with a \$1.75 trillion Build Back Better framework, a package less than half as large as what he originally proposed. For this, he said, "Everybody's on board."

But they're not. In reality, the two key holdouts in the Senate, Kyrsten Sinema (D-Ariz.) and Joe Manchin (D-W.V.), have yet to commit to voting for the bill despite having demanded all those amputations.

That's the Senate for you. Just two senators (perhaps serving as cover for a handful of others) forced Biden to drastically scale back his ambition and made the Democratic Party look even more like a bunch of numskulls in the

pocket of vested interests than it really is — which is saying a lot. The Senate is a broken, failed institution which no longer serves any positive purpose, if it ever did. It is nothing more than a blood clot in the aorta of American politics, and it needs to be cut out before it kills us.

The most obvious argument against the Senate is that it's a grotesque affront to basic principles of democratic fairness. "One person, one vote" is the intuitive and logical moral foundation for a fair system of political representation. This is why property qualifications for voting were removed in the 19th century. It's why African-Americans got the vote in 1870 and again in 1965. It's why women got the vote in 1920.

But the Senate does not abide by this principle. And there's no reason other than naked self-interest of smaller states for Wyoming residents to have 69 times (not nice!) the representative weight of Californians in the Senate, or for Vermonters to have 45 times the weight of Texans. The Senate's bias doesn't even have any consistency to it — it just depends on the random happenstance of population distribution. Back in 1920, Nevada was the smallest state, with just 77,407 residents, and, in the Senate, its voters had 134 times the weight of voters in then-largest New York.

Historically, the randomness of this bias somewhat counteracted its unfairness. But that's no longer true: Texas notwithstanding, the Senate is blatantly slanted to the right. Its median seat is about seven points more conservative than the national electorate, simply because there are so many low-population states full of rural white people.

Conservatives defend the Senate, ostensibly on principle — but come on, it's rigged in their favor. Probably the most common argument is about federalism and how it supposedly protects people's rights. The Senate and its filibuster are among "the few tools preserving (what's left of) enumerated powers and federalism," writes David Harsanyi at National Review.

But the Senate's gigantic unfairness actually makes it anti-federalist. Rather than preserving local governing authority, the Senate gives tiny states hugely disproportionate influence over national matters. Right now, the Senate is allowing Arizona and West Virginia (with a population of less than 9 million put together) to dictate terms about national tax, welfare, and climate policy to California and New York (population: nearly 60 million combined).

A second argument against the Senate is that it doesn't remotely work the way it was designed. The supposed justification for an upper house (aside from being a bareknuckle political power grab from smaller states when the Constitution was being drafted) was that it would decentralize power and tame majoritarian domination in keeping with the Madisonian logic of checks and balances: "Thwarting the will of the people is precisely what the Senate is there to do," writes Kevin D. Williamson, also at National Review. Senators will want to preserve the power of their institution, so the argument goes, and they will act according to that logic.

This does not remotely happen these days. The Senate does not act as an independent body which can actively contest the power of the House, the president, or the Supreme Court. It does just one thing: obstruction.

The only remaining vestige of the Senate's putative status as the "world's greatest deliberative body" is a handful of deluded chumps like Manchin and Sinema clinging to the extralegal tradition of the filibuster as somehow incentivizing bipartisan compromise. Instead of checks and balances, constant gridlock in Congress means power has flowed inexorably to a hypertrophied president and judicial branch.

Today we have parliamentary-style parties in a constitutional system explicitly designed to prevent parties from forming. Whether a member of Congress is a Democrat or Republican tells you nearly all you need to know about how they will vote; whether they are a representative or senator is almost irrelevant. That means the Senate's only practical effect is adding another point at which oligarch lobbyists can garrote popular policy.

One might object that without a Senate, it would be easier for Republicans, while in power, to do bad things. In 2017, for example, an ObamaCare repeal vote fell short by one Senate vote. And it's true that if you make it easier for a half-decent party to pass semi-sensible policy, you also make it easier for a bad party to pass horrible policy.

But two other things are also true. One, awful policies, like taking health insurance away from millions of people, generally aren't popular. And two, if one believes in democracy, a legitimately elected majority should be allowed to carry out its policy program. The process of democratic collective reason requires it

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### **Medium: Jan 22, 2019 – Ian Milden Liberals, You Don't Really Want To Abolish The Senate. Think about the consequences rather than the principles**

I have seen several articles on Medium, among other places, that have called for the abolition of the United States Senate. Many of these articles are written by people who would consider themselves to be liberals or progressives. This is important to keep in mind because that affected how I framed my arguments. Many of these articles also focus on principles instead of the consequences of abolishing the U.S. Senate. I think that a serious focus on the consequences of abolishing the Senate may cause the Senate's critics to rethink their position.

If the United States Senate was abolished, the legislative branch would be left to the United States House of Representatives. While that might be attractive to progressives based upon the current makeup of the House, it should alarm them if they look at recent historical trends. This is only the fifth year since 1994 that Democrats have controlled the House. That's slightly under 21% of the time within that timeframe.

Putting the House of Representatives in charge of the legislative branch also empowers a phenomenon that liberals hate: gerrymandering. Hyperpartisan state legislatures would have more control over what legislation gets passed at a national level. While Democrats made major gains at the state level in 2018, Republicans have complete control of the redistricting process in important states such as Texas, Ohio, Florida, and North Carolina. North Carolina has a Democratic Governor, but North Carolina does not give the Governor a role in the redistricting process. Republicans also maintain control of the state legislatures in other critical states that recently elected Democratic Governors such as Wisconsin, Michigan, and Pennsylvania.

Democrats have advantages in New York and California's U.S. House delegations. However, they can't provide the same level of advantages that are provided by Texas, Ohio, Florida, and North Carolina. New York is projected to lose House seats in the next redistricting cycle. California's districts are drawn by an Independent Redistricting Commission, which prevents Democrats from drawing an advantageous map for themselves.

Texas, Florida, and North Carolina are all projected to gain seats in the U.S. House after 2020. While Democrats may argue that demographic changes make these states more appealing and winnable, the state legislatures in these states have durable Republican majorities. These legislatures have the power to gerrymander their own legislative districts to keep themselves in power. Considering some of the characters that are in some of these state legislatures, their power to draw districts should alarm Democrats.

Gerrymandered districts have played a role in helping some bad ideas gain support within the U.S. House of Representatives. One example that should be on the minds of Democrats (and others) these days are the dozens of attempts to repeal the Affordable Care Act. The Senate had a major role in stopping many of these attempts, most notably the last one. While the Senate has sometimes held up Democratic legislative priorities, it has also been an important check on the House's partisan excesses.

Eliminating the Senate would also remove this check from Cabinet and Judicial nominations (assuming the simplest reconstruction of the Constitution). The Senate has, for the most part, done a good job of derailing nominees who are too extreme or unqualified. I know this may sound like an absurd statement to make now, but the last two years have been abnormal. Liberals shouldn't let a recency bias affect how they examine the Senate's overall handling of bad nominees.

Many articles mention the equal number of Senators for each state even though there are different populations between states. These writers think that it is unfair that California has the same number of Senators that Wyoming has. That's a defensible position to have, but it misses the point.

The Constitution was set up to form a balanced republic. Giving each state two Senators was a way to be fair to the smaller states, so they had a way to defend their interest from a majority of large states. It has provided states with a way to block legislation that would harm their state's economies or people's lives. An example that has been blocked because of the power of U.S. Senators is the plan to deposit nuclear waste on Yucca Mountain in Nevada.

The powers of U.S. Senators did provide the south with a way to defend slavery and Jim Crow. That was bad. However, the U.S. Senate did help end both slavery and Jim Crow. The Senate has historically shown the ability to overcome obstacles that defend bad institutions when they are defended by powerful Senators. The Senate still has the ability to do so today.

Drastically modifying or abolishing the Senate would upset the balanced republic created by the Constitution. Modifying or abolishing the Senate would destroy a critical check on the U.S. House's partisan excesses. It would also upend the system of checks and balances between three branches of government. One branch would end up being dominant over the others. This opens the possibility of unchecked abuses of power that are not able to be corrected.

The composition of the United States Senate is not democratic. That's fine. The United States is not a democracy and never was. It is a republic that has a system of rules that contain democratic elements. The rules are difficult to change in order to protect those that are not in the majority. Considering who is currently in the White House, Democrats should be thankful for that.

Liberals should stop calling for the Senate to be abolished. People calling for it have miscalculated the consequences of doing so if they have not ignored them altogether. The Senate is too important of an institution to dismantle, and I am thankful that abolishing it would be a difficult task to complete.

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**The New Republic. June 7, 2021 by Michael Tomasky (Editor of the New Republic)**

Yes, Take This Seriously: It's Time to Kill the Senate

The upper body of Congress has become a colossal wreck where democracy goes to die.

Well, it's looking pretty grim. Last week, Kyrsten Sinema said that the filibuster, which for decades was used chiefly to sustain apartheid in the South and in our time has been used to block passage of measures that have clearly enjoyed majority support among the people (higher minimum wage, stricter gun laws, etc.), "is a tool that protects the democracy of our nation."

Following hard on her heels was Joe Manchin, who wrote in an op-ed Sunday that he won't vote to "weaken or eliminate" the filibuster. Earlier this year, Manchin had indicated that he was open at least to reforming the filibuster—to forcing filibustering senators to hold the floor and talk, as in the old days (today, all they have to do is have an aide call the clerk's office to say they'll filibuster, and it's done). But he seemed to slam that door shut Sunday.

This is devastating for Joe Biden's agenda, yes. But more than that, it's devastating for democracy. Poll after poll after poll has told us that the things Biden wants to pass enjoy the support of huge majorities of Americans. But because of the rules of the Senate, rules that aren't in the Constitution and which would have appalled the Founders, these things that clear majorities want can't pass. That's anti-democracy in action, benefiting only a political party that has shown its contempt for democracy on other fronts through its support of gerrymandering and voter suppression.

What to do? People talk of reforming the Senate in this way or that. But that's hopeless. There's only one conclusion here. Before the Senate kills democracy, we must kill the Senate.

That's right. Kill the Senate. It shouldn't exist. Or maybe it can exist, but only as a toothless and meaningless body, like the British House of Lords.

The House of Lords example is highly relevant here. In 1909, the governing Liberal Party proposed a budget known as "the people's budget," which, for the first time in British history, proposed a raft of taxes on rich people to pay for social welfare "programmes."

The rich weren't very keen on this. They couldn't control the House of Commons, where the Liberals were in charge, having won more votes than the Tories (another increasingly quaint concept in the United States—that the party that won more votes should get to impose its agenda). But they had the run of the House of Lords, which mostly consisted of wealthy aristocrats.

The long and the short of it is that in 1911, the House of Commons passed the Parliament Act, which eliminated the Lords' ability to veto money bills and left it so that Lords could merely delay, but never block, legislation passed by the Commons. And for the 110 years since, the House of Lords has been a nonfactor.

We should do the same to the Senate. It has no justification for even existing. It was created in a deal that was sold to us as schoolchildren as "the Great Compromise" but that, in real life and in real time, no one particularly liked. It passed at the Constitutional Convention by one vote, 5–4–1. Speaking of majority will, those five state delegations voting in favor did not represent a majority of state delegations, because 12 states sent delegates to the convention. In addition, the large states with more delegates, notably Virginia and Pennsylvania, opposed it. So the body that has repeatedly thwarted majority will in our history and been overly protective of the minority was itself created by a minority.

The day after that vote, delegates from the four states voting against the creation of the two-per-state upper chamber huddled together to try to undo this madness. But, as James Madison wrote, they could not come to an agreement on a Plan B, so they dropped it.

The rest is history, mostly very bleak history, and I expect you know it. Throughout the nineteenth century and into the twentieth, the Senate was home to wealthy conservative men who looked after the interests of the railroad barons and the cotton planters and the sugar growers and so on. But the Senate was most viciously and consistently reactionary when it came to civil rights.

Then, for one brief and shining moment in history, which lasted for about 20 years or so, there was a shift. The election of 1958 brought several genuinely liberal members to the Senate, giants like Phil Hart of Michigan and Gene McCarthy of Minnesota. These were men who'd grown up in the Depression and served their country in World War II and thus understood that both severe poverty and global fascism were very real threats to democracy. They governed and voted accordingly.

But those among this visionary cohort who hadn't retired or passed away by 1980 were wiped out when the backlash hit and several very conservative and not always very bright (e.g., Dan Quayle) senators rode into Washington on Ronald Reagan's coattails. Since 1980, power in the Senate has teeter-tottered back and forth, but for the past two decades, the Republican Party has been extreme enough that the thought of getting six or eight or 10 Republican senators to join Democrats in backing even watered-down progressive legislation has been a fantasy.

None of this is to let Sinema and Manchin off the hook. Their behavior here is tragic. Manchin's position is at least politically understandable given that he's from a state Donald Trump won by 40 points. Sinema is just an infuriating mystery. Whatever their motivations, their actions are historically indefensible. The filibuster doesn't protect democracy, and they know it.

Nevertheless, this predicament is bigger than the two of them, and it wouldn't be solved if they changed their minds tomorrow. The problem is the Senate itself. Someone needs to mount and finance a serious public education campaign to do away with or at least dramatically weaken it. An unrepresentative upper chamber will almost always stand athwart progress. The United Kingdom awoke to this reality 110 years ago. When will we?

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**GQ October 2018 – “The case for abolishing the Senate”. - Jay Willis** (Jay Willis is a staff writer at GQ covering news, law, and politics. Previously, he was an associate at law firms in Washington, D.C. and Seattle, where his practice focused on consumer financial services and environmental cleanup litigation. He studied social welfare at Berkeley and graduated from Harvard Law School in 2013.)

The upper chamber has become far more undemocratic than the Constitution's framers could ever have imagined. What would American government look like without it?

The United States Senate exists today because the Constitution's framers did not trust America to function without it. Unlike the House of Representatives, the "people's House," whose members were expected to be as prone to extremism and shortsightedness as the constituents they would represent, the plan was for the Senate to be the dignified, deliberative body that operated above the fray of politics. As Virginia delegate and noted optimist Edmund Randolph put it at the Constitutional Convention, a good Senate would "restrain, if possible, the fury of democracy."

By this ambitious metric, the Senate is a failure.

Today's upper chamber has completed its transformation into a smaller version of its more populist sibling, the House—except this one does not come close to reflecting the actual population, or for that matter, the actual population's actual interests. The Senate's once-celebrated hallmarks of comity are history. Blue-slipping is on the way out. For judicial and executive branch appointees, the filibuster is gone, and I believe that once a party that holds the White House, the House, and a slim Senate majority feels so moved, it will abolish it for legislation, too. This Republican-controlled Senate's efforts to pass the tax bill and repeal the Affordable Care Act—its two most important policy goals—proceeded under a process that is not subject to filibuster, because Mitch McConnell knew he'd be unable to earn 60 votes for either one, and therefore didn't bother trying.

Only two years ago, when faced with the most significant Supreme Court vacancy in a generation, the majority leader decided to hold it open for over a year, offering no coherent justification other than his desire to have it filled by a president who shares his ideology. It was maybe the most brazen power grab in Senate history, and not one of his purportedly solemn, fair-minded GOP Senate colleagues breathed a word of dissent about it. Three weeks ago, Lindsey Graham—once one of the alleged pragmatic dealmakers—saved another Supreme Court seat for his party by screaming at his colleagues across the aisle while on national television. To the extent that this place was ever some hallowed clubhouse of nonpartisan decorum, it is not one any longer.

When the Constitution was written, the Senate's other primary purpose was to preserve the power and autonomy of smaller states, whose representatives feared that their voices would be drowned out altogether in national politics. Senators would resolve this fear because each state would receive an equal number of them, regardless of population size. Their mandate was to represent the interests of their states, not necessarily the interests of the constituents in those states; before 1913, it was state legislatures, not voters, who were responsible for selecting their two representatives in the Senate.

But this distinction, too, is mostly gone. America is not a loose confederation of quasi-independent states held together by a begrudging mutual appreciation for the collective provision of national security. It is a gigantic nation of some 325 million people, and a robust federal government manages its day-to-day administration, and the dissolution of the union—a distinct possibility from the end of the Revolutionary War until 78 years later, when a certain faction of states made the ill-fated decision to try it—is no longer a serious alternative. The 17th Amendment, which did away with the old selection system and provided for the direct election of senators, dispensed over a century ago with the notion that senators represent places, not people. They are as beholden to voters as the House members over whom they still claim some vague sense of clearheaded, sober superiority.

The Senate's transformation into a funhouse-mirror version of the House is a quiet emergency for democracy, because its members are still allocated equally among states. And since there now are a greater number of sparsely-populated, mostly-white, right-leaning states than there are heavily-populated, racially-diverse, left-leaning states, the Senate acts to preserve power for people and groups who would otherwise have failed to earn it. A voter in Wyoming (population 579,000) enjoys roughly 70 times more influence in the Senate than a voter in California (population 39.5



million), which sounds like the most unfair statistic in American politics, until you remember that taxpaying U.S. citizens in Washington, D.C. and Puerto Rico still have no influence in the Senate at all.

An undemocratic body yields undemocratic results. The 50 senators who voted to confirm the wildly-unpopular Brett Kavanaugh represent only 44 percent of the population; the 51 senators who passed a widely-reviled \$1.5 trillion tax cut for the wealthy, about the same. In this year's midterms, across-the-board enthusiasm for Democrats is likely to flip the House but not the Senate, since so many Democrats face built-in partisan disadvantages—the accidental byproducts of border-drawing history. In presidential elections, the Senate guarantees at least three electors to seven states whose populations merit only one seat in the House: Alaska, Delaware, Montana, Vermont, Wyoming, and both Dakotas. This scheme basically guarantees a net of six electoral votes to the Republican candidate, every single time; it is one of many absurd anachronisms that lead to America, say, spending four years under a president who earned a full 3 million votes fewer than his closest competitor.

Abolishing the Senate would not solve the national scourge of gerrymandering, whether along partisan or racial lines. It would raise the stakes of that fight, actually, since drawing House districts would become the parties' primary means of influencing the system that would determine control of a newly-unicameral legislature. But noting the existence of one undemocratic institution that badly needs reform is not a good argument for preserving another one. Nor is this problem unique to the House; really, the tradition of selecting two legislators from each state is its own form of gerrymandering. It just depends on a better-known, more-established set of lines.

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The best argument for preserving the Senate is that baking federalism in to the American system of government ensures the safety of the minority within a majority-rule system. Sometimes, having a body that acts slowly (if at all) is an important check on very bad ideas: If the House were to try and, say, pass a bill that would restrict the rights of the majority's political opponents—or its least-favorite ethnic or religious group—"democracy" would just be a polite term for collective despotism. It's worth noting that while Paul Ryan was able to jam the American Health Care Act through the Republican-controlled House, McConnell couldn't do the same in the Republican-controlled Senate, and we're all better off because of it.

For every time the Senate fulfills this noble responsibility, however, there seem to be four or five more instances in which it allows a faction that represents a clear minority of this country to accomplish something it has no business accomplishing. This is especially true in the appointments context, in which the House is given no role at all. In practice, the upper chamber now functions less often as a modest, ideologically-agnostic restraint on majority rule than it does as affirmative action for a particular party's agenda. As these demographic shifts continue and population disparities widen, on scales the Founders never could have imagined, the Senate's legitimacy will continue to evaporate.

There are other ways of protecting political minorities that do not require the perpetuation of such a powerful upper chamber: Perhaps the bar for passing a bill in a unicameral House should be higher than a simple majority. Reducing the number of House members, thereby diversifying the composition of each representative's electorate, might slow the chamber's descent into polarized chaos. To simplify the confirmation process, a smaller House commission could be tasked with providing advice and consent, with its membership rotating to ensure global participation. (Also, federal courts would still be around to uphold constitutional and statutory rights, and would be unlikely to find that, for example, the "Trump Family Banishment to Mars Act of 2032" passes legal muster.) When its failures are this pronounced, the fact that the Senate was a sensible-enough idea in 1787 does not justify pretending forever that no alternatives exist.

The grim reality for would-be reformers, and happy news for principled institutionalists and residents of Wyoming, is that the upper chamber's structure is enshrined in the Constitution, and was so important at the time that the framers made it not subject to the usual amendment process. "No state, without its consent, shall be deprived of its equal suffrage in the Senate," says Article V. Small states are not going to unanimously disenfranchise themselves, and to the extent that this upheaval would require passing legislation, it's hard to imagine senators of either party facilitating their own unemployment. The fact that it serves as its own watchdog is maybe the Senate's most important form of power: No matter how undemocratic it becomes, it will face no real consequences for choosing to look the other way.

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### **Wikipedia Article - List of abolished upper houses**

This is a partial list of abolished upper houses of bicameral legislatures and parliaments at national and lower levels of government. The reasons for abolition include removal of unelected houses, under-representation of ethnic/religious

minorities, under-representation of women, cost-cutting in government expenditure, longer and unlimited terms in office (leading to accusations of monarchism), and to speed up the process of legislation due to upper house scrutiny.

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## **Australia**

The Legislative Council of Queensland was the upper house of the Parliament of Queensland, and was entirely appointed by the Governor of Queensland.

The appointed membership, along with the Council's opposition to many of the reform measures of the Ryan Labor Government which was elected in 1915, resulted in the government formulating a policy to abolish the Council, a proposal continually rejected by Council Members, and defeated in a 1917 referendum.

After the Labor Government of Ted Theodore had Acting Governor William Lennon appoint 14 Labor Members to the Council, giving the Government a majority in the Upper House, the Legislative Council sat for the last time on 27 October 1921, the day after it voted itself out of existence.

All other Australian states continue to have a bicameral system.

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## **Canada**

Some Canadian provinces once possessed upper houses, but abolished them to adopt unicameral systems. Newfoundland had a Legislative Council prior to joining Canada, as did Ontario when it was Upper Canada. Newfoundland has the power to re-establish its upper house, the Legislative Council, pursuant to Term 14 (2) of the Terms of Union.<sup>[1]</sup> Manitoba had an upper chamber until it was abolished in 1876, New Brunswick's upper chamber was abolished in 1892, Prince Edward Island's upper chamber was abolished in 1893, Nova Scotia's upper chamber was abolished in 1928 and Québec's upper chamber was abolished in 1968.<sup>[2]</sup>

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## **Denmark**

The Landstinget was the upper house of the legislature of Denmark from 1849 until 1953. It was abolished in the 1953 referendum when the new constitution was approved.

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## **Estonia**

According to the 1938 Constitution, the Riigikogu had two chambers, which replaced the unicameral system. The lower chamber was called Riigivolikogu and the upper chamber was named Riiginõukogu. Both chambers were disbanded in 1940, following the Soviet occupation, and rigged<sup>[3]</sup> elections for only the lower chamber Riigivolikogu were held. According to the 1992 Constitution of Estonia, the parliament is once again unicameral.<sup>[4]</sup>

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## **India**

The State Legislative Council or Vidhan Parishad is the upper house of the state legislature in India. The states of Assam, Bombay, Jammu and Kashmir, Madhya Pradesh, Punjab, Tamil Nadu and West Bengal have abolished the Vidhan Parishad in their legislatures. The Vidhan Parishad of Andhra Pradesh was abolished in 1985 but revived again in 2007.<sup>[5]</sup>

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## **Sweden**

The Första kammaren was the upper house of the legislature of Sweden from 1866 to 1970 until an amendment was made to the 1809 Instrument of Government in the 1970 general election.

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## **New Zealand**

The (appointed) New Zealand Legislative Council was abolished in 1951.

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## **United States**

Nebraska is the only state in the United States to have a unicameral legislature, which it achieved when it abolished its lower house instead of the upper house in 1934. For this reason, state legislators in Nebraska are sometimes called "senators", as the Nebraska State Senate has been the sole house of the state legislature since the Nebraska State House of Representatives permanently dissolved in 1937. During the governorship of Jesse Ventura in Minnesota, he called for the state to have a unicameral legislature, but these plans never materialized.