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Overview: Institutional Design and
the Role of the Senate

Marian Sawer

On 10 December 1949 proportional representation (PR) was used for the first time for the election of the Australian Senate. The election saw not only the landslide in the House of Representatives that swept away the Chifley government, but also, as a first consequence of PR, the new Menzies government's failure to achieve a similar landslide in the Senate. It was the beginning of a new era, one that eventually led to the rebirth of the Senate as a parliamentary institution controlled neither by government nor opposition.

When the founding fathers were debating last century what should be the nature of the new federal institutions, William McMillan was a leading advocate of the role of the Senate. He was also to become an active member of the Proportional Representation Society of NSW, founded in 1900. In the debate on means to deal with deadlocks between the two houses, he argued strongly against any provision that would weaken the power of the Senate as a 'revising chamber' and preventer of unwise legislation. He said:

> … the only check we have on hasty legislation, the only check which the people of the country have upon the tyranny of the house of representatives, is the check of another chamber; and we must be very careful that, while allowing for those extreme cases, we do not do anything to weaken that great necessary check on our government.[1]

From the beginning, the Senate had the authority of a house of parliament directly elected by popular franchise, unlike any other upper house in Australia or indeed in the world. The establishment of a disciplined two-party system from 1910 meant,

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[1] William McMillan, *Australasian Federal Convention Debates,* 15 September 1897, p. 548.

however, that the anticipated functions of the Senate as a house of review were largely put on hold. The Senate was to achieve its destiny as the check on the tyranny of the House of Representatives or, rather, of the executive that dominates the House of Representatives, only after the adoption of PR. Even then, it took some time before the situation was achieved where no government was able to control the Senate. Campbell Sharman argues in his chapter that we should essentially date this modern era from 1955, when the Democratic Labor Party (DLP) raised awareness of the potential for minor parties in the Senate.[2]

The Barton government's 1902 Electoral Bill included PR for the Senate, and a small group of Tasmanians and South Australians led by Sir John Downer even wanted PR in both houses. Although strong arguments were mounted for PR, including the strengthening of opposition as well as representation of minorities, they were ahead of their time as far as the federal parliament was concerned. The President of the Senate, Sir Richard Baker, argued persuasively that the old system of block voting was not broke, so there was no reason to fix it.[3]

By 1948, block voting was largely seen as broke, given the unbalanced and unrepresentative chamber that resulted from it. It created what John Uhr refers to in his chapter as the 'windscreen wiper effect'. At the 1946 election, Labor had won 43 per cent of the vote for the Senate and 84 per cent of the seats. At the forthcoming election, when the Senate was being enlarged, the swing was rightly predicted to be in the other direction; as well as providing a more credible electoral system, the introduction of PR would limit the scale of non-Labor gains and Labor losses. So, despite its long-time philosophical commitment to majority government, Labor introduced PR—which had the short-term result that Labor maintained its majority in the Senate and the long-term result that Labor never again achieved a majority in the Senate in its own right.

As Sharman argues in his chapter, the role of PR in creating the situation of today, where neither the government nor the Opposition control the Senate, has been of primary significance in strengthening the Senate as an instrument of accountability. The minor parties, which have come to the fore in the Senate in the last twenty years, will never themselves be in a position to form government.[4] Therefore they have an in-built interest in upholding the functions of parliament vis-à-vis the Executive, whether in terms of strengthening legislative and executive scrutiny or broadening community participation in the legislative process. As Francis Sullivan notes in his paper, the minor parties and independents have used their pivotal role in the balance of power to become the brokers of community concerns.

While the Coalition and the Labor Party still attract three-quarters of the Senate vote, it is the minor parties and independents that have played a disproportionate role in parliamentary reform. The development of the Senate committee system, including the increased independence from government since 1994, has been the most notable

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[2] Originally under the name Australian Labor Party (Anti-Communist).

[3] Sir Richard Baker, *Commonwealth Parliamentary Debates*, 19 March 1902, p. 11007.

[4] This distinguishes them from the National Party, which although a minor party in terms of vote and parliamentary representation, is always either actually or potentially in government due to Coalition arrangements with the Liberal Party.

institutional change resulting from PR. The Senate is now able to refer matters, including legislation, to committees with non-government majorities and non-government chairs, against the wishes of government. There have been a range of other reforms, including time limits on questions and answers in question time and controls over last-minute introduction of legislation or non-proclamation of legislation. Major developments in the Senate and associated reforms are summarised in Tables 1.1 and 1.2.

Table 1.1 Milestones in Senate history since 1949

1949	First use of proportional representation
1955	Democratic Labor Party (DLP)* shows new minor parties can be elected
1971	First Aboriginal Senator, Neville Bonner, chosen to fill casual vacancy
1974	First joint sitting of both houses of parliament to resolve legislative deadlocks
1975	Senate blocking of supply precipitates downfall of Whitlam government
	The ACT and NT elect senators for first time—two each, with three-year terms
1977	Constitutional change to ensure casual vacancies filled by same party
	First Australian Democrats senators elected
1979	ALP drops platform commitment to abolish the Senate (after 60 years)
1981	Minor parties and/or independents hold balance-of-power from now on
1984	Number of senators rises to 12 per state
	Group ticket ('above-the-line') voting introduced
	Names of political parties printed on ballot papers
1986	Senator Janine Haines becomes first woman to lead a parliamentary party
1993	Minor parties negotiate changes to Labor Budget to increase equity
1996	Senator Margaret Reid becomes first woman President of the Senate

* Initially called the Australian Labor Party (Anti-Communist)

Table 1.2 Milestones in Senate reform since 1949

1949   First use of proportional representation

1970   Establishment of standing committee system (general purpose and estimates committees specialising in different portfolio areas)

1981   Scrutiny of Bills Committee established, to apply civil liberties criteria to legislation

1986   Deadline for introduction of bills ('Macklin motion') to avoid end-of-sitting rush

1987   Parliamentary Privileges Act covers evidence given by witnesses at hearings and documents submitted by them

1988   Citizens' right of reply to statements made under parliamentary privilege

1989   Annual Reports of departments/agencies to be scrutinised by standing committees

        Procedures to ensure timely proclamation of legislation, including biannual tabling of provisions not proclaimed

        Permanent procedure for absolute majority of senators to recall Senate

        New procedures adopted for regular referral of bills to committees

1990   Selection of Bills Committee starts operating, to decide on referral of bills

1992   Time limits imposed on questions and answers in Question Time

1993   Double deadline for bills initiated by Senator Chamarette, to prevent bills being rushed through House of Representatives to meet Senate deadline

        'Family-friendly' sitting hours

        Public servants to receive training in accountability to parliament

1994   Restructuring of standing committee system into legislation and references committees, the latter with non-government chairs and non-government majorities

1996   Permanent order requiring production of indexed lists of government files to facilitate FOI requests

Source: Information in *Odgers' Australian Senate Practice,* 9th edn, 1999.

Governments have responded sharply to some of these developments, arguing they should be allowed to get on with governing, as though parliament was somehow dispensable between elections. This proposition, that parliament should not interfere with the business of government, including its legislative program, raises the question

that forms the title of Fred Chaney's chapter, 'Should parliament be abolished?' This is the logical conclusion that follows from governments insisting they have a mandate that renders illegitimate any modifying of majoritarianism, including interference by parliament or the courts.

By contrast, Elaine Thompson looks at the indispensable role the Senate has come to play as a champion of democratic accountability, through estimates hearings as well as other proceedings. The Senate has constituted a counterweight to managerialism in the public service and the general impatience with democracy that has accompanied the age of competition policy, contracting out and commercial-in-confidence. The policy role of the public service has been shrinking, not only because of contracting out, but also because the balance of policy advice has been shifting in the direction of ministerial offices. No adequate mechanisms have yet been devised for making ministerial staffers accountable for their policy advice. The debate over whether ministerial staffers can be summoned to appear before Senate committees does appear, however, to have been resolved in the affirmative. Such staff have appeared either voluntarily or under summons, as with the Director of the National Media Liaison Service (known as ANIMALS) in 1995.

Harry Evans underlines the pivotal role of strong bicameralism and upper houses independent of government in achieving accountability. He believes the rise of disciplined political parties led to the demise of the basic tenet of responsible government, that the executive should be responsible to and removable by the lower house. In addition to the role of party discipline, the increased size of the executive relative to parliament (the expansion of the front benches relative to the back benches) has also contributed to executive dominance. Evans sees accountable government, government that can be forced to account for its actions by a chamber it does not control, as the modern-day substitute for responsible government. It is PR that has made this independence from government possible and given a pivotal role to minor parties and independents. Independence alone might mean a chamber dominated by an obstructionist Opposition with no capacity for negotiated outcomes on process or policy.[5]

In his chapter, Evans sets out the range of accountability measures that have been introduced by the Senate, down to the requirement that departments place lists of their files on the Internet, to assist Freedom of Information requests. All of these accountability measures (see Table 1.1) have been resisted by the governments of the day. Evans sketches the range of strategies that can be employed by parliament to ensure that governments comply with accountability demands. Most of these involve some degree of disruption to the government's legislative program until the demand is met, for example an order for production of a document.

In October 1999, the Senate imposed sanctions on a minister for refusing to comply with just such an order. Senator Jocelyn Newman had refused to table a document requested by the Senate, namely a discussion paper on welfare reform that had been suppressed. The Minister was censured by the Senate on 13 October and two

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[5] In other words, without multipartism, strong bicameralism and a different party composition in the upper house might not be sufficient to achieve the modification of entrenched majoritarian modes of behaviour and the shift towards what Lijphart has defined as the consensus model of democracy.

proposals were put forward for further sanctions. Initially, the Democrats proposed that Newman be gagged until she purged her contempt—that is, that the Minister be unable to progress legislation or be heard on any other matter relating to her portfolio.

Labor did not support this gagging, which it described as a 'holiday from accountability' and proposed a different strategy that was successfully moved by the Democrats on 19 October. The motion was to lengthen question time to give the Opposition and the Democrats one additional question each (eight and three questions respectively) until the Minister purged her contempt. In other words, rather than silencing the Minister, she would be penalised by having to answer more questions. This was the first time this particular sanction had been tried.

Some of the chapters in this volume, while applauding the vigour with which the Senate is upholding principles of accountability, also express concern at the degree to which party discipline is now prevailing over other principles. Several authors note that the role of the minor parties has become a substitute for the kind of independence previously displayed by Liberal backbenchers. In 1970, Senator Lionel Murphy's proposal for the creation of the Senate standing committee system succeeded because the Opposition was supported by one Independent (Senator Reg Turnbull) and one government Senator (Senator Ian Wood).[6]

Again in 1981, the Scrutiny of Bills Committee was established against the wishes of the Coalition government, on the motion of Liberal backbencher, Senator Alan Missen. Former Senator Fred Chaney describes, in his chapter, the somersault he was forced to perform on this occasion (not the first in his career). As a minister, he was forced to speak against a proposal he himself had initiated as a backbencher. His Liberal colleagues, senators Neville Bonner, David Hamer, Robert Hill, Don Jessop, Kathy Martin and Peter Rae, crossed the floor to support Missen's proposal, which resulted in a large majority for this new civil liberties watchdog. Few believe that this kind of independence would be displayed by government backbenchers in the 1990s. Evans suggests in his chapter that governments 'now regularly oppose all accountability measures and can rely on their backbenchers' unwavering support in doing so.'

The role of minor parties is an irritant to the major parties and during the 1990s there has been a series of 'mandate wars' over whether the Senate has a right to dispute policies that have been part of a government's election platform. As Murray Goot details in his chapter, the Australian electorate clearly supports (and indeed rewards) the role of the Senate in blocking unpopular policies. The fact that a government has achieved a majority of seats in the lower house (sometimes, as in 1990 and 1998, with less than 40 per cent of the primary votes) does not mean that the electorate wants the Senate to rubber stamp all government policies. A significant number of Australians vote differently for the two houses of the federal parliament and, of those, a

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[6] There was some complicated manoeuvring over the creation of the committee system, as a result of which the opposition (Murphy) motion to create seven standing committees and the government motion to create five estimates committees were both successful. Since 1994 the standing committee system has been split into eight legislation committees, with government chairs and majorities (through the chair's casting vote) and eight references committees, with overlapping membership and a shared secretariat, but with non-government chairs and majorities. Democrat senators chair two of the references committees.

percentage are quite explicit in seeing a minor party vote in the Senate as an insurance policy against overweening government.

"There he goes — casting pearls before senators."
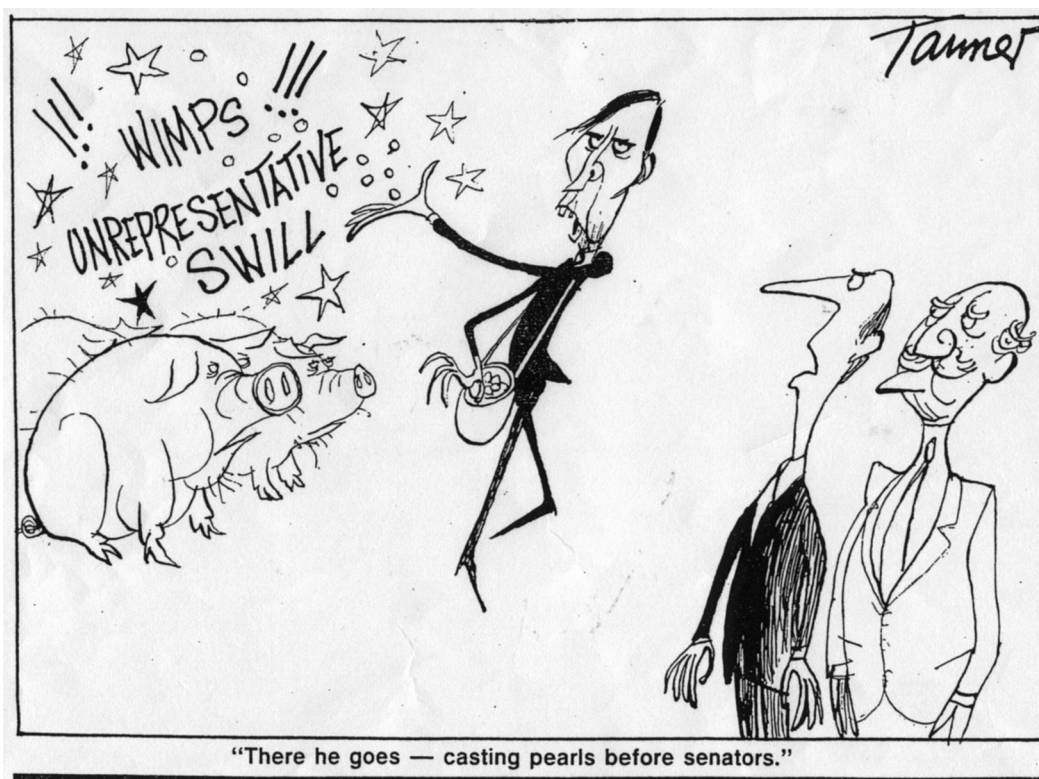
Les Tanner, *Age* (Melbourne), 6 November 1992

The frustration experienced by the Keating government over Senate independence and obstinacy famously led Paul Keating to describe the Senate as 'unrepresentative swill'. Tasmanians do have, as a result of the wheeling and dealing over Federation, the equivalent of plural votes for the federal parliament—votes that are each worth 12 NSW votes. In other ways, however, the Senate is more representative of the social and political diversity of Australia. In my chapter I describe how questions of political representation have become more complex in recent times as social movements have mobilised new political identities alongside and cutting across old party cleavages. The Senate has been better placed to reflect this increased diversity than has the House of Representatives with its single-member electorates.

The suggestions by governments that only the House of Representatives reflects the popular will and that the Senate lacks legitimacy for its policy role are not borne out by survey evidence or by the outcomes of Senate activity. As Melissa Langerman points out, governments frequently make use of Senate processes to plaster over faults in legislation that has been rushed through the lower house. During the 37th parliament (1993–1996), 33 per cent of bills were amended in the Senate; most of these were government amendments, although often under pressure from or co-sponsored by the Democrats. Of the non-government amendments, 15 per cent were from the Opposition, 9 per cent from the Democrats, and 4 per cent from the Greens.[7]

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[7] John Uhr, 'Generating Divided Government: the Australian Senate', in Samuel C. Patterson and Anthony Mughan, eds, *Senates: Bicameralism in the Contemporary World,* Columbus, Ohio State University Press, 1999.

Senator Andrew Bartlett makes the point that since the Australian Democrats gained the balance of power after the 1980 election, the Senate has operated in a far less hostile manner than it did in the past when controlled by the Opposition. During the 38th parliament (1996–1998), 427 pieces of legislation were passed and only two ultimately rejected. More election promises remain unfulfilled because governments hope the electorate has forgotten about them than because of Senate obstruction. Of course the discovery of financial 'black holes' is another way of disposing of inconvenient election promises. None the less, as Senator John Faulkner notes in this volume, Keating was sufficiently enraged by the need to negotiate his 1993 Budget with minor parties that he contemplated replacing PR with preferential voting in 12 single-member electorates in each state.

The debate over whether the Senate had a 'mandate' became even more heated when the Coalition won a large majority of lower house seats in 1996. The new government inherited parliamentary reforms, such as Senate control over legislative timetables, that they had supported when in Opposition. These reforms (initiated by Senator Christabel Chamarette and described by Prime Minister Keating as a 'constitutional impertinence') had imposed a double deadline for the introduction of new legislation into the House of Representatives and the Senate, to enable adequate legislative scrutiny. In Opposition, the Coalition had both supported the cut-off points and been intransigent about the amount of time set aside under standing orders for government business, as contrasted to general business of the parliament. Now that it was in government, the Coalition did not want to be held back by cut-off points for new legislation and wanted much more time for government business.

The Prime Minister, John Howard, wished to brook no delay in implementing his 'huge mandate'. Senator Noel Crichton-Brown, on the other hand, used his new-found freedom as an independent Liberal senator to raise doubts. He commented that minor parties such as the Australian Democrats also had a right to stick by their campaign policies, for example on Telstra: 'their vote went up on the basis of their policies and the presentation of their leader. They can hardly roll over now, and justify the vote and support they got.'[8]

Government impatience with the Senate increased markedly after the 1998 election, when both the government and the financial press saw Senate independence as an obstacle to the speedy introduction of a goods-and-services tax (GST). Senator Helen Coonan, Deputy Government Whip in the Senate, brought forward controversial proposals for reform. She claimed that delays imposed by the government's lack of a working majority in the Senate were threatening Australia's economic performance.[9] Coonan endorsed a proposal, previously put forward by Liberal MPs Tony Abbott and Wilson Tuckey, for the introduction of a threshold system into Senate elections so that parties with a small percentage of primary votes could be removed from the count.

[8] Radio National, Background Briefing, 'The Senate: What Goes Around Comes Around', 5 May 1996.

[9] Senator Helen Coonan, 'The Senate: Safeguard or Handbrake on Democracy?' Address to the Australia Institute, Sydney, 3 February 1999. It should be noted here that the government had received only 37.7 per cent of the Senate vote, so the lack of a working majority was seen by many as a fair outcome.

Some such change was needed to end the 'rule of minorities', which she described as getting in the way of effective government and making Australia uncompetitive.

The proposal for a threshold (80 per cent of a quota or 11.3 per cent of primary votes) was also endorsed by the Liberal Party Federal Council in July 1999. Many Labor identities joined in the call for Senate 'reform', including Stephen Loosely, Peter Walsh, Gary Johns, Bob Hogg and Peter Barron: 'Both parties hate Senate restrictions while in government. The trick is to get them to realise that the pain suffered while in Opposition is a small price to pay for the pleasure of being able to govern with real freedom…'[10] It was odd to hear the rhetoric of 'letting the managers manage' not only intruding into the public service, but also being applied to institutions of representative democracy.

It should be noted that it was not only in relation to federal parliament that major parties were attempting to change the electoral rules to remove minor parties from houses of parliament elected by PR. Indeed, it was the success of such moves in Tasmania, birthplace of the Hare-Clark system of PR, that gave momentum to the calls for Senate 'reform'. In Tasmania 'both sides of politics' (note how majoritarian discourse reduces politics to a two-party adversarial game) united in 1998 to remove 'minor party obstruction'.[11] The Tasmanian Greens had held the balance of power during both Labor and Liberal minority governments and had used this position to promote a number of reforms to strengthen the parliament vis-à-vis the executive. In 1998, the minority Liberal government and the Labor Opposition united to reduce the number of members of the lower house from 35 to 25. This raised the quota needed for election to 16.5 per cent, making it very difficult for minor parties or independents to be elected. At the time of the election the cross benches were physically removed from the parliamentary chamber, symbolically reinforcing the intent of the change. One Green did succeed, however, in being re-elected; she brought in a folding chair to sit in the gap between government and opposition.

In her chapter in this volume, Coonan extends her argument that delays imposed by Senate processes on, for example, the government's financial reforms are incompatible with the speed of decision-making in the global economy. She quotes Paul Kelly of the *Australian* to the effect that 'Compared to the speed of decision-making in the market-place, parliamentary democracy is hopelessly old-fashioned.' By contrast, Arend Lijphart had demonstrated, in his keynote address, the absence of any correlation between faster majoritarian decision-making and economic performance. Indeed, he suggested that fast decision-making was not the same as good decision-making, offering as an example the disastrous British poll-tax decision made by the majoritarian Thatcher government.

Coonan brings forward further proposals, including one first put forward by the Joint Standing Committee on Constitutional Review 40 years ago, that the Constitution be

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[10] Peter Barron, 'Why reforming the Senate is the priority', *Australian Financial Review,* 5 October 1998. A different route to eliminating minor parties is currently being mooted in NSW, where the government attracted only 35 per cent of the vote for an upper house elected by PR and a number of 'micro' parties won seats. The NSW proposal involves erecting significant barriers in terms of the cost of party registration as well as the size of membership (1000) required.

[11] Stephen Loosely, 'End the mandate muddle', *Sunday Telegraph* (Sydney)*, 4 October 1998.

amended to enable joint sittings of the houses to resolve deadlocks, without a prior double dissolution election.[12] While this would certainly facilitate the enactment of the policies of a government with a large lower house majority, it was seen by most of the conference participants as unacceptable for its effects on Senate independence. As Evans points out in his chapter, it is the power of the Senate over government legislation that gives it the leverage to extract accountability from government. Any weakening of that power would also be a move backward in terms of openness and transparency of government.

One issue Coonan raises that has wider resonance concerns the intrusion of partisanship into Senate committee processes. In her chapter in this volume, Anne Lynch quantifies the erosion of consensus and the growth of partisanship on Senate committees over the last 20 years. In 1978, all Senate committee inquiries resulted in consensus reports, whereas by 1998 consensus had evaporated and partisan dissent had become the norm. Whereas there had once been a stark contrast between the 'ritual stag fights' of the chamber and relatively non-partisan work out of the spot light, this was no longer the case.

Lynch concludes that neither the structural changes to the committee system (which have reduced government control) nor the increased volume of work are responsible for the increased acrimony. She postulates that one reason for it is the increased media attention that has accompanied the more activist role of the Senate, and the temptation to play to the gallery. Consensus politics is regarded as poor media. Paul Bongiorno discusses the interesting relationship between the media and political styles in his chapter on the introduction of television to the Senate. While the media love conflict, the public react strongly to seeing their political leaders brawling.

Michelle Grattan confirms that media interest has moved to the Senate, and the 'cracking good stories' generated by the unpredictability of outcomes where the government is not in control. She points to the irresistible attraction of the dirty linen brought to light through Senate committees, but also notes the difficulty of keeping up with the wealth of information committees generate. Langerman observes the dulling of media interest where committee reports do not focus on bills immediately before parliament or where there is a long delay in the government response. So the media coverage of committee work is very uneven, regardless of the quality of reports, the cogency of public submissions or the importance of the subject matter. Australian Associated Press (AAP) is the only news service providing full-time coverage of the Senate, and even AAP has to prioritise its coverage.

As noted in a number of the chapters, particularly those by Peter Sekuless and Francis Sullivan, partisan behaviour in Senate committees now extends to the treatment of witnesses, with members of the community being subjected to bullying and other forms of partisan attack. Sekuless reminisces about attending his first committee hearing in the late 1960s, when Dame Ivy Wedgwood was chairing the Public Accounts Committee: she saw it as her role to protect witnesses, even public servants, from over-zealous and partisan questioning. Today, the behaviour of politicians

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[12] A former national secretary of the ALP made a similar suggestion in 1998, with the further gloss that during such joint sittings the Senate vote might be weighted on a basis consistent with state populations, so that the 12 NSW senators would comprise a vote worth 35 per cent of the total.

during committee hearings is seen as contributing to a general cynicism about politicians and parliamentary institutions. This, in turn, fuels movements to bypass the representative and deliberative elements of democracy in favour of forms of plebiscitary democracy such as citizen initiated referenda (CIR) or popular election of a president.

Other problems that threaten the functioning of Senate committees include those highlighted in Dee Margetts' chapter—budget cuts that undermine the independence of committees and lead to replacement of staff by departmental personnel or even private contractors. She cites as an example of the blurring of separation of powers a serving military officer becoming acting secretary of the Defence Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, and saluting other officers during a committee inspection of a defence establishment.

Nevertheless, Sekuless claims that Senate committees and their secretariats often have more corporate memory of policy areas than do the continually restructured public service departments that are supposedly responsible for them. He uses the example of the Senate committee that put together a new regulatory regime for the export of education services, after the collapse at the beginning of the 1990s of the unregulated industry.

Ian Marsh also has a more optimistic view of the potential of Senate committees, which he sees as the primary vehicle for a regime change in policy development, now that political parties have abdicated their earlier roles in interest aggregation and agenda setting. Marsh sees the potential for Senate committees to involve a broad range of policy protagonists and community interests in the strategic phase of policy development, before positions harden and consensus becomes impossible. Ideally, Senate committees should conduct much of the consultative phase of policy development currently left to bureaucracy. This would enable the refurbishment of methodologies of consultation once regarded as exemplary in global terms, but currently atrophying under managerialist regimes.

The potential of Senate committees to help broaden community input into policy development is also referred to by Sawer. The referral of legislation to committees enables much broader participation in the deliberative process than is possible where legislative review is restricted to parliamentarians. Sawer discusses this contribution to more inclusive representation and deliberation both in terms of the Senate's own processes, and its potential to oversee the adequacy of consultative mechanisms across government. Just as the Senate oversees other forms of accountability, so it should ensure that consultation protocols are adequate to ensure those most affected by policy have the opportunity and capacity to participate in the policy process. One aspect of this is capacity building, through public funding of community-based peak bodies and other forms of strengthening weak voices, so that all sections of the community can be effectively represented to government and to parliament.

This more optimistic note is continued in Senator Kate Lundy's contribution, which looks at the potential of cyberdemocracy in broadening the interaction between citizens and senators as well as enabling current developments such as the live webcasting of proceedings. Lundy argues for the introduction of the new information and communication technologies to the floor of parliament, suggesting the current

restrictions are anachronistic in the face of ways the Internet and Intranet are transforming the political landscape.

In terms of electronic democracy, the Senate led the way in 1997 with the acceptance of electronic petitions, provided the senator presenting them certified that the full text of the petition had been visible to the signatories. In 1999 the House of Representatives baulked at taking the same step, concerned, among other things, that the gathering of signatures through the Internet did not involve the community in the same way as gathering signatures at shopping centres or community activities.[13] The latter suggests that cyberspace is in some way not true public space where active citizenship can be encouraged and social capital accumulated.

The volume concludes, as did the conference, with Geoffrey Brennan's observations on perennial issues of institutional design such as whether the virtue of PR is inherent—in which case should it be extended to the House of Representatives as urged by Bartlett—or whether the virtue consists in the achievement of a different party composition in the two houses and, in particular, the independence of the Senate from either government or opposition. Brennan also draws attention to the honourable place of PR among the many democratic experiments and institutional innovations that have found a home in Australia. It is too often forgotten that long before its adoption by the Senate, it was Australian colonies that were responsible both for the first public use of PR and its first parliamentary use—not Switzerland or Belgium.[14] The conference ended, as does this volume, with the celebration of a milestone in the evolution of our democracy.

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[13]House of Representatives, Standing Committee on Procedure, *Its Your House: Community Involvement in the Procedures and Practices of the House of Representatives and Its Committees,* Canberra, Parliament of the Commonwealth of Australia, 1999, p. 13. Cf. *Odgers' Australian Senate Practice*, 9th edn., p. 446.

[14] In Australia, PR was used for the election of the Municipal Corporation of Adelaide in 1840 and was adopted for the election of Hobart and Launceston Members of the Tasmanian House of Assembly in 1896. It was used at the Tasmanian elections of 1897 and 1900 and for the Tasmanian members and senators of the new Commonwealth Parliament in 1901. In Switzerland, PR was used for elections in the Canton of Ticino in 1891, and the d'Hondt system of PR was adopted for Belgian parliamentary elections in 1899.