

The Senate and Proportional Representation: Some Concluding Observations

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In reviewing the range of papers presented here, we should not perhaps be too surprised that the question of proportional representation (PR) in the Senate has raised such a variety of issues—broad questions like representation, and participation, and the role of the press, and the access of lobby groups of various kinds, and high principles of democratic governance such as the appropriate system of checks and balances and the effectiveness of general electoral constraints. There is not much in political life that the current role of the Senate leaves unaffected, and proportional representation has been crucial in establishing that ‘current role’. Just at the moment, the Senate is the biggest game in town—not least because of various proposals around to clip its wings. And however one comes down on the question of whether the various proposed clippings are desirable, one cannot deny that they involve matters of fundamental political principle. In other words, a discussion of the Senate is timely, quite apart from the 50th birthday celebrations; and that discussion serves to direct attention not only to the role of proportional representation in the Senate, but also to a wide range of important features of our political institutional life.

In a more delimiting spirit, it seems to me that a distinction ought to be drawn between PR as a mechanism of election in general, and PR as an ingredient in the bicameral structure in the way it operates in the Australian context. If one believes—as Harry Evans’ paper suggests—that good government is, like the amateur golfer’s swing, a mass of compensating errors, then a good case might be made for the use of PR in the Senate without requiring one to decide on whether PR is, in a global sense, a better electoral system than the single-member electoral district system that characterises the House of Representatives. One might take the view that there is something to be said for both multiple-member (PR) and single-member districts, and conjecture that the Australian bicameral system serves to exploit the advantages of each. Or one might take the view, implied by Fred Chaney, that the critical feature of

the electoral system used for the Senate is that it generally ensures a party composition in the Upper House different from that prevailing in the Lower House—and that it is *this* feature of our current arrangements (and of our use of modified PR) that is the basis of any reasoned defence of PR in the Senate. Of course, the question as to whether PR, in some form, offers a ‘better’ basis for representation than alternatives is an interesting issue, and whether in particular it constitutes in itself a form of ‘consensus’ as opposed to ‘majoritarian’ politics (to use Arend Lijphart’s typology) is a matter of considerable moment. But in the particular bicameral setting in which PR applies here, these latter questions seem to be second-order. In particular, as John Faulkner suggests in his paper, one does not have to criticise the House of Representatives or its method of election to approve the Senate—or vice versa. There *has* been a certain amount of such criticism in current party political contestation; but Faulkner is right to imply that that kind of criticism is mostly to be understood as adversarial rhetoric of the standard party-political kind.

Related to this point, it seems to be harder in politics than in almost any other arena of life to maintain the distinction between playing the game within the rules and the determination of the rules themselves. The failure to observe that distinction is, I take it, what underlies the *cri de coeur* for a renewed (small c) ‘constitutional sense’ that we hear from Fred Chaney in his paper. By a ‘constitutional sense’ here, I mean an awareness of the general rules of the political game, specifically shorn of any more immediate issue of whether those rules happen to work to your advantage in a particular instance. As Chaney notes, it may be a tough ask to look for such a sense among our political leaders. They are the players in the game and players do not normally make good umpires—except when they cease being players. (I rather took it that Fred himself confessed that difficulty in his own political past.) One thing, however, that I thought misplaced in the Chaney paper was the inclination to identify the constitutional sense with ‘conservatism’. It may well be that stability is an important element in any well-functioning set of political rules; if the rules change all the time, then one really does not have any rules at all. But a concern with institutional arrangements as such, and a concern to have the political game played according to well-defined rules, is no monopoly of those who take a conservative stance on policy matters. It is both misleading and potentially destructive of support to suggest otherwise.

One aspect of the discussion contained in this volume that is particularly interesting is the history of PR. I have in mind not only John Uhr’s very interesting paper on the initial decision in the late 1940s and its doctrinal pre-history, but also some of the general discussion. There was the account of the young Catherine Helen Spence witnessing the world’s first PR election, conducted by her father in 1840 for the Adelaide Municipal Corporation. This account reminds us of the larger story of Australia as an institutional innovator/experimenter/adventurer/entrepreneur. A significant number of routine features of Australian political institutional life are either distinctive—like compulsory voting—or are examples of Australia being the first to use a practice that is now almost universal—like the secret ballot (the Australian ballot, as it used to be known). Perhaps we are no longer as innovative as we once were. Perhaps not all our innovations have deserved the life they have enjoyed here. But we have an impressive history in this area and a laudable tradition. Despite this, we are sometimes inclined to see our institutions not just against a comparative backdrop (which is almost always useful), but as if they were *derivative*

(which seems to me unhelpful). To take a particular example, I confess I find the description of Australia's system as a form of 'Washminster'—a hybrid of American and British forms—diminishing rather than illuminating. It is certainly true that the system has some elements that are reminiscent of the United Kingdom and some of the United States. But particularly in relation to our prevailing bicameral arrangements, it seems to me to be most useful to understand them in their own terms and evaluate them accordingly. We were, after all, the first country to directly elect its upper house and to combine this with strong bicameralism. To see the Australian Senate through the prism of the House of Lords, for example, is to invite an irrelevant prejudice—not entirely unknown in Australian politics.

Finally, although I share general anxieties about becoming excessively celebratory about *any* element of political life, it also seems to me to be a mistake to refrain from applauding institutional strengths where you see them. As I see it at least, PR in the Senate has been by no means the worst feature of our political institutional array. It has certainly been one of the most interesting and distinctive features. On that basis, if no other, it deserves the standard birthday treatment, and a cheerful round of 'Happy Birthday'.