CONSTITUTIONALISM, BICAMERALISM AND THE CONTROL OF POWER

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THE NATURE OF BICAMERALISM

Bicameralism is only a subset of the constitutional principle of division of power. According to that principle unlimited power vested in an individual or group will be abused; it will be used to retain power, to reward supporters and punish opponents and to divert public purposes to private ends. So power must be limited. The only satisfactory method of limitation is to divide power between different bodies with some sort of veto over each other's actions. Only respect for another power can restrain power. To make the system last, the division is made between institutions, not people.

> The thesis that power corrupts its possessor may be as good a "law" as any that we have in political science ….
>
> Whether exercised by a monarch or by a small group, persons who regard themselves as especially wise and virtuous are probably the worst custodians of power.
>
> Historical experience, however, is not an unrelieved record of failure to deal with the problem of power. A number of societies have succeeded in constructing political systems in which the power of the state is constrained. The key to their success lies in recognising the fact that *power can only be controlled by power.* This proposition leads directly to the theory of constitutional design founded upon the principle most commonly known as "checks and balances".[1]

Inherent in this view is that it is a delusion to seek good government by ensuring the choice of wise rulers; no-one is fit to be trusted with undivided power. As was famously said, systems of government should be designed for people, not angels.[2]

Also inherent in this principle is that democracy, the popular election of the rulers, is a useful safeguard, as distinct from a supposed mechanism for giving effect to the will (what will?) of the people. As a safeguard it is not sufficient. Electors will vote for tyrants who give them prosperity, peace and/or glory, or the illusion thereof. Democratic electorates are also careless of corruption and malfeasance in government unless and until it begins to affect their personal circumstances.[3] They expect the political class to solve such problems, but the political class cannot do so without the appropriate institutions to enable remedies to be implemented.

So the possessors of power in a system must be forced to take note of others also with power, working through institutions with some measure of independence. Bicameralism is only one way of establishing a division of power. Another is the entrenchment of an independent judicial power exercised by appointed judges with tenure, a system unquestioned except until recently by American right-wing fundamentalists, and in itself basically undemocratic. Another is federalism, the division of power between levels of government, which, as economic fundamentalists occasionally point out, is likely to be "inefficient" in superficial ways. Safeguards often are.

No safeguard is infallible. The division of power can be defeated simply by the capture of supposedly independent institutions by a person or the same group of persons bent on some common purpose. It matters little whether such a group aims at "schemes of usurpation or perfidy"[4] or Great and Necessary Reforms; abuse as defined will be the result.

In devising institutions for the division of power, the hope is that the personnel in an institution (whether elected office-holders or wretched parliamentary clerks) will develop a loyalty to the institution and its purposes and therefore support its role. It is hoped that the rights of the place will become the interests of the person.[5] This hope may also be defeated.

CONSTITUTIONALISM IN AUSTRALIA

Australia may be regarded as one of those fortunate societies which has managed to deal with the problem of power by constructing a political system in which the power of the state is constrained by power controlling power. The Australian Constitution has many of those safeguards which arise from that construction:

- a practically irremovable constitutional monarch, operating through a prestigious representative
- federalism: an entrenched division of power between the centre and the provinces
- the cabinet system, which ensures collective decision-making by a politically responsible group rather than one person
- responsible government, whereby the holders of the executive power can be removed at any time when the legislature loses confidence in them
- an independent judiciary with a powerful constitutional court at its head.

In practice, this structure of safeguards has been seriously degraded:

- the real head of state (as the monarchists insist on designating him) is hired and fired by the prime minister, who has also largely taken over the celebratory/social role of the office[6]
- the central government can interfere with any of the responsibilities of the states, and does[7]
- the cabinet is largely a formal registering body for the decisions of the prime minister and his inner circle;[8] this seems to be accepted as normal by all concerned
- government is not responsible, or even accountable, to parliament; government controls parliament (or at least lower houses) through a built-in, iron-clad, rusted-on party majority[9]
- the judiciary is appointed by the executive alone, and if power is held long enough can be stacked with ideological sympathisers.[10]

The case for bicameralism in Australia in 2006 is not the old case of one house checking another; it is not even the case of adding another division of power. It is the case of providing *something*, *anything*, which will limit the power of the state held at best by a small group of persons and in practice by one person, the prime minister.

There is a weak defence of the current system, and a case for an upper house, along the following lines. In order to retain power, the government, or usually the prime minister, has to keep their supporters on side. (So does even the most absolute monarch; there are always courtiers and barons to be consulted and placated.) The lower house is where the supporters formally operate. An upper house increases the number of supporters who have to be kept on side, and may magnify the significance of any dissenters. Thereby government is accountable. This is a feeble argument for such a potentially significant institution as a parliament. It is not sufficient to justify the expense of either a lower or an upper house. Such an institution must exercise a publicly-visible and substantial check on the power of government to justify its existence.

Australia might also be called a fortunate society regardless of the state of its governance (rising real estate values, low interest rates, etc, etc). So who cares that the carefully planned scheme of the ancient founders has been frustrated? Australia is well supplied, however, with abuses of power as defined; legislation has been devoted to retaining power, to rewarding supporters and punishing opponents, and public resources have been diverted. Examples will here be carefully selected and delicately described to avoid giving offence. Readers may recall their own selection.

POLITICAL AND OTHER SAFEGUARDS

Bicameralism is a political safeguard; it operates through the political or elected branches of government. Other safeguards may be constitutionally entrenched or established by statute.

Constitutional safeguards are valuable, particularly if they are difficult to change, as in Australia. It is only necessary to think about what sort of system of government Australia would now have if the Constitution could have been changed by a parliamentary majority, as in some countries, rather than by referendum. Of course governments would have rearranged the system to suit themselves, and remove checks on their power. But, as has been noted, systems of government can be changed without formal changes to the constitution; written constitutions can be undermined.

Secondary or statutory safeguards are also valuable. Australia has quite a number of them, in which great trust is reposed: auditors-general, administrative appeals tribunals, ombudsmen, freedom of information statutes. All of these kinds of safeguards, however, are at the mercy of governments in control of the legislature. They can be dismantled at any time. To choose an example which may not give so much offence, remember the legislation by the Kennett government to disband the Victorian Audit Office.

Governments with parliamentary majorities have the electoral law, in particular, at their mercy. The temptation to rearrange it to perpetuate themselves is hard to resist.

Also, all non-political safeguards depend ultimately on the political processes for their establishment, maintenance and defence. Attempts to dismantle them are likely to be successful in the absence of political noise and obstruction generated in the political class. That noise and obstruction needs independent political institutions to be effective. Therefore the political safeguards, such as bicameralism, are the primary safeguards. This is a variation on the theme that power can only be controlled by power.

CONDITIONS FOR BICAMERALISM

As noted, safeguards can be defeated. Bicameralism, and other divisions of power, can be defeated by the capture of the institutions by the same person or group. Therefore, bicameralism has to be designed, as well as can be, to keep the parliamentary institutions in different hands.

In Australia that means devising upper houses which are not likely to be under the control of governments. In Australia in 2006 that means keeping upper houses as much as possible

away from government party majorities. As recently as the 1980s it was a reasonable proposition that a government party majority did not necessarily mean government control. The Fraser government did not control the Senate even when it had a majority there; at various times there were up to twelve government senators ready to vote against the government, particularly on issues of accountability. Party discipline, or the compulsory loyalty of government backbenchers to their government, has greatly increased since then. "Crossing the floor" is now such a serious step that governments are mostly able to forget the possibility.

This means that in practice election by proportional representation is the only likely means of establishing an upper house with the means to exercise a division of power. If any other construction of the institution is feasible, news of it would be welcome.

The establishment of such an upper house in a jurisdiction which does not have one, or the reform of an ineffective one, may be regarded as a "big ask", as the jargon has it. Governments which effectively control the rest of the system are not very enthusiastic about limiting their own power, particularly when in practice this involves handing power to their rivals and opponents. Such an occurrence, however, is not entirely impossible, as witness the decision of the Victorian government to implement proportional representation in the Victorian Legislative Council.

Discussion of bicameralism in Australia arouses the morbid dread, genuine or feigned, of a repetition of the events of 1975, of an upper house forcing a government to an early election. The remedy is readily available: a fixed term parliament, whereby the lower house can be dissolved early only if it is unable or unwilling to support a government. A bill for such a change to the Commonwealth Constitution was passed by the Senate in 1982, with some Coalition senators voting against their government to pass it. By removing the power of a prime minister or premier to call elections for political convenience, the fixed term is a useful reform in itself (which is why it was dropped by the incoming government in 1983).

Speaking of reform, the governance of Australia could be greatly improved by reform, not of the primary institutions, but of the political parties, to make them more internally democratic and less able to enforce total conformity on their members.

ITS VALUE

The value of an upper house not under government control is essentially that it establishes something of a legislature which may be capable of doing what legislatures were once supposed to do. Premier Bjelke-Petersen famously had difficulty in articulating the principle

of separation of powers. He could be forgiven because separation of the legislative and executive powers has virtually been lost in Australia, apart from those upper houses. The executive government legislates through its ever-compliant lower house majority. Normally no rejection or amendment, and sometimes even no debate, is allowed on proposed laws as they emerge from the secret councils of the executive. The public largely think that this situation *is* normal; parliaments are seen as merely low-quality debating panels controlled by governments, which is what lower houses are. Only upper houses violate this system of "democracy". And, apart from those upper houses, parliaments are not allowed to discover information which government is not willing to disclose.

In the old textbooks, legislatures were supposed primarily to legislate and to inquire. Legislating meant making the laws, even if only adjusting the proposals of the executive. Conducting inquiries was seen as feedback into legislating, but more importantly could be seen as disclosing information necessary to ensure capable and honest government. Sunlight, it was said, is the best disinfectant, and the legislature was supposed to let the sunlight in.

So far as legislating goes, rejecting or amending the proposals of the "democratically elected" government is now characterised as obstruction. Whether obstruction is a bad thing obviously depends on what is being obstructed. The great fallacy that obstruction is always undemocratic because the electors have approved everything that the executive government wants to do has been too much debunked to require any further refutation.[11] The "obstruction" of legislation by upper houses of the kind envisaged is likely to indicate that what is proposed lacks broader popular support than the forty-odd percent of votes sufficient for governments to win office. Also, such obstruction may be in the best interests of governments by relieving them of the obligation to attempt to implement the more extreme measures of their ideological supporters.[12]

In relation to inquiries, throwing the sunlight is more important than making better laws. If abuse of power is the evil to be avoided, the ability of an independent legislature to expose abuse is highly significant.

The point is that governments use their parliamentary majorities to suppress both activities. Legislation notoriously is "rubber-stamped", with no dissent by government backbenchers, much less contribution by members of other parties, permitted. Inquiries are not permitted if they might cause embarrassment to government. It is those inquiries that are the most needed, if abuses are to be avoided. Only upper houses not under government control actually perform legislative functions by exercising to a certain extent the legislative power and the inquiry power.

This may be demonstrated by an examination of the activities of two such upper houses, the Senate and the New South Wales Legislative Council. The state of the Senate after the government gained its majority on 1 July 2005 provides a useful before-and-after study.

The Senate: legislation

In relation to legislation, the Senate's record of obstruction is exceedingly thin. Those who think that governments with a monopoly of power deserve greater obstruction would not be impressed by the performance. In the years of the current government, an average of 154 bills has been passed each year. Attachment 1 shows the pieces of legislation in respect of which there were outstanding disputes between the Senate and the government. The list is cast in terms of bills which may have developed into "triggers", and bills which actually became "triggers", under section 57 of the Constitution, in the parliamentary term of 2001-04, including those reintroduced from previous terms. It is an extremely short list. Only seven pieces of legislation remained as "triggers" at the end of that term. It may be argued that they were important bills. The contrary consideration is that, lacking broader support, they did not deserve to pass. Many more that passed were also important. In the government's previous terms only five bills qualified as "triggers". Of obstruction there was little.

Attachment 2 shows the number of amendments made by the Senate to government bills in each year. Amendments moved by non-government parties are not distinguished from government amendments, because government amendments were frequently offered in an attempt to overcome perceived difficulties with legislation and to gain support in the Senate. This list indicates a modestly significant contribution to law-making. In order to assess whether the contribution was valuable, a judgment would have to be made about each piece of legislation and each amendment. Unless it is thought that legislation is perfect as promulgated by government, it would have to be conceded that some useful contribution may have been made. Since the government gained its majority in the Senate on 1 July 2005, only four non-government amendments, out of almost 600 moved, have been accepted. Even amendments supported by government senators in committees have been rejected in some cases, those senators voting for the rejection. The most significant instance was the Telecommunications Interception Bill 2006. Unless it is thought that government legislation has suddenly attained perfection, it would have to be conceded that some valuable contribution may have been lost.

The list of "triggers" in attachment 1 shows the treatment of one piece of the government's first round of anti-terrorism legislation. The intensive scrutiny and extensive amendment of that legislation by the Senate was widely welcomed for providing some safeguards for basic civil liberties; it could hardly have been called obstruction. It also provided a specimen of bicameral legislative negotiation and compromise which was common in the Senate. By contrast, the Telecommunications Interception Amendment Bill, greatly expanding the power to intercept electronic communications, was speedily passed with all non-government amendments rejected.

The Senate chamber is not the only forum for scrutinising legislation. The system of subjecting bills to scrutiny in committees, including by hearing evidence from interested organisations and members of the public, was established by the Senate over many years to enhance government accountability for legislative proposals. This system is still in place, but the Coalition government has used its majority to restrict the time available for committees to examine bills. The average time allotted declined from 40 to 28 days, which gives potential witnesses less time to prepare their submissions and to make their contributions in oral evidence. The government has also blocked the referral of some bills to committees. And the committees cannot amend bills, so their evidence and reports can simply be ignored, even when government members of the committees have expressed their support for changes to legislation, as the examples referred to indicate.

It has been noted that a government with control over law-making has the power to alter the electoral law to favour its own re-election. A piece of electoral legislation passed in June 2006, shortening times for enrolment and increasing the limit on non-disclosable donations to parties, was seen by the non-government parties as the first instalment of such a project.

The Senate: inquiries

It has been suggested that the inquiry function is more important than the legislating function. To give a long perspective, attachment 3 is a list of major accountability measures taken by the Senate, going back to 1901 but concentrating on more recent times; they are called accountability measures because they have in common the effect of compelling governments to provide information and to explain themselves in ways that would otherwise not be required. All of these measures depended, directly or indirectly, on governments not having control of the Senate; none would have been taken if governments had had the current level of control. Particular attention is drawn to the establishment of the Scrutiny of Bills Committee in 1981. That accountability measure was taken, in a period when the government had a majority in the Senate, only because several government senators voted against the government on the issue. Unless it is thought that all of those measures were

totally useless or deleterious in effect, it would have to be conceded that some contribution has been made to better government.

The Senate has conducted many inquiries into many matters. Attachment 4 is a list of matters inquired into by the Senate since just before the beginning of the current government to the time of its majority. Unless it is thought that the public had no right to know anything about any of these matters, it would have to be conceded that some contribution to public knowledge and exposure of actual or potential problems has occurred. Before 1 July 2005, for example, there were inquiries by committees into the government's industrial relations advertising campaign, whereby $55 million of public funds were spent on advertising government proposals which had not even been *introduced* into Parliament, much less passed, and into the Regional Partnerships and Sustainable Regions Programs, under which millions of dollars in grants were given to private organisations and individuals for regional development projects, some of a dubious nature. In both cases, money had not been specifically appropriated for the purposes of the expenditure. Attachment 5 shows motions for inquiries moved in the Senate and negatived by the government majority since 1 July 2005. It is clear that inquiries will not now be permitted into matters which may be politically awkward for the government.

Another way in which the Senate has conducted inquiries is by means of orders for the production of documents, usually made on ministers to disclose information about matters of public concern. Attachment 6 shows the subjects of orders for documents from 1996 to 2004. The current government, before gaining its majority, was building up a record of refusals to comply with orders for documents. There was also an increasing tendency simply to refuse rather than to make out some argument for non-disclosure on public interest grounds. In the Parliament of 1993-96, 53 such orders were made, all but 4 being complied with. In the Parliament of 1996-98, 48 orders were made and 5 were not complied with. In the Parliament of 1998-2001, there were 56 orders, and 15 not complied with, in that of 2002-04, 89 orders and 46 not complied with. Since 1 July 2005 only one motion for production of documents has been agreed to. Attachment 7 is the complete list of those rejected. Again, the list shows that the government will suppress any information likely to be politically awkward.

The refusal of the government to allow any inquiries into politically difficult matters leaves the Senate estimates hearings as the last forum for asking questions about such matters. The value of estimates hearings in improving accountability and probity of government has long been widely recognised. The hearings allow apparent problems in government operations to be explored and exposed, and give rise to a large amount of information which would not otherwise be disclosed. Now, however, estimates hearings are under sufferance. This is

shown by the instruction to officers not to answer any questions about the AWB Iraq wheat bribery affair. It was explicitly stated that this was not a claim of public interest immunity, simply a flat refusal.[13] The only reason given was that the Cole commission of inquiry was looking into the matter. It was not claimed, and could not be claimed, that there was any parliamentary/procedural or legal reason for not answering questions in the hearings. Two statutory bodies not amenable to ministerial instruction (the Wheat Export Authority and the Australian Securities and Investment Commission) answered questions. It was simply asserted that having two inquiries would be undesirable. The only disadvantage of different inquiries is the danger of contradictory answers. In any event, having the numbers means not having to give good reasons.

The AWB affair is also instructive because the commission of inquiry came about only because of pressure from overseas, ironically starting with pressure from members of a legislature which is freer than ours, the US Congress. Without the element of overseas pressure, and without a free-range Senate, we would probably have remained in the dark. It is the AWB-type affairs we do not know about which are cause for worry.

In the past, where ministers have resisted inquiries in committees, the majority of the Senate has undertaken various steps to pursue the inquiries, including directing committees to meet again, directing particular witnesses to appear, instructing committees to conduct wider inquiries, ordering ministers to produce particular information and extending the length of question time in the chamber. These measures have the effect of raising the level of any dispute, and have generally been successful. In effect, if a government wished to be uncooperative it had to get into a major fight in the chamber with the potential to disrupt its legislative program. This ability of the Senate to impose a remedy has effectively been removed because of government control.

It is unrealistic to expect an investigative media to perform the role of a hobbled Senate. Many people, especially public office-holders, will not talk except in a protected forum. Only the parliamentary forum can offer the protection of parliamentary privilege, if, of course, it is allowed by government to have something to protect.

Apart from the desirability of informing the public, it is in government's long-term interest not to conceal wrongs in the body politic. Governments never seem to learn this. It may be, as government senators asserted, that there were no systemic problems in the Regional Partnerships and Sustainable Regions Programs, under which large sums of public money were handed out to private bodies and persons for various "development" projects. But surely it was useful to have a Senate committee looking closely at instances where expenditure at least appeared dubious, to help ensure that things remained on track before a

spectacular wreck occurred.[14] Suppressing the legislative inquiry function only allows evils to multiply, and lengthens the time it takes for them to burst forth. The dominant ministerial principle of keeping the lid on things is not good government.

It is often said dismissively that Senate inquiries are based on party politics. Estimates hearings in particular are said to be largely devoted to party politics, with non-government senators attempting to put blame on ministers or particular officers and to win political points. This should not be a matter for reproach, and nor does it invalidate the hearings as an accountability process. Free states work through party politics. Subjecting the rulers to the scrutiny of their rivals and opponents is what the safeguard is all about. The ultimate safeguard against the misuse of power by a government is the ability of its opponents and rivals to find out about, and draw attention to, its mistakes and misdeeds. Accountability is not a refined process which operates on an elevated plane, above sordid politics. Accountability operates in the realm of politics.

The record shows what would have been lost without the Senate, or with the Senate perpetually under government control, and what will be lost in the current situation. There would have been less information available to the public, and governments would have been freer to practise malfeasance and concealment. Perhaps the economy would have been in even finer shape without all this legislative interference. Perhaps not. Abuse of power unchecked can ultimately defeat even the policies approved by economists.

New South Wales Legislative Council

In relation to this house, a single but telling example is offered: its ability to compel governments to disclose information they otherwise wish to keep secret for their own protection.

Like the Senate, the Council has used orders for production of documents to gain access to information held by government about matters of public concern. When met with refusals, however, the Council was bolder and more determined than the Senate. In 1996, when the Treasurer refused to disclose documents in response to an order, the Council ejected him from the chamber and from the building. He was sufficiently ill-advised to take the Council to court, and comprehensively lost the case. The Supreme Court upheld the power of the Council to impose a penalty for refusal of an order for documents. After a few more contests, the Council established a situation whereby it is able to obtain any government documents it requires, subject only to independent arbitration of any government claim that it would not be in the public interest to disclose particular information.[15] Council orders for documents have now become so unremarkable that they go unreported, and the public is unaware that

particular disclosures have been brought about by the Council. For example, the disclosure of information about the cross-city tunnel was the result of a Council order.

A great volume of information that would otherwise have been concealed from the public has been disclosed through this legislative action. Government has been more accountable and less able to conceal any misdeeds as a result.

WHAT DO WE WANT?

However cogent the argument, there will remain a hard core of the hard-nosed who only want governments to get on and govern, and who require only the ability at regular intervals to remove them if they do not. Such people will continue to scorn all safeguards as wasteful and inefficient, a drag on the market.

The real realists, however, are those who know that, while their wallets may be intact for the time being, their pockets will not remain unpicked and their rights untrampled if their chosen representatives are given a free rein between elections indefinitely. Such people are properly sceptical of the claim that "strong government" equals economic growth.[16] They will welcome the timely installation of safeguards to curb malfeasance at an early stage. Australia is now undersupplied with safeguards, and oversupplied with public scandals, not counting the misdeeds we do not get to hear about. We should preserve the safeguards that exist and think very carefully about new ones.

Harry Evans

NOTES

* Australian National University Research School of Social Sciences Political Science Program and Australia-New Zealand School of Government Seminar Series, 4 October 2006.

1 S. Gordon, *Controlling the State: Constitutionalism from Ancient Athens to Today*, 1999, pp 2, 14-15.

2 *The Federalist*, No. 51.

3 Cf "Anyone know of a scandal?", "Voters don't believe Coalition on AWB", *Sydney Morning Herald*, 28 February 2006, pp 4, 10.

4 *The Federalist*, No. 62.

5 *Ibid*., No. 51.

6 I. McPhedran and L. Dowidat, 'G-G fades from sight', *Courier Mail*, 24 August 2006, p. 32. The "disappearing" or "invisible" Governor-General has become something of a theme of the literature: K. Walsh, 'Lost: one G-G, rarely driven', *Sun-Herald*, 23 November 2003, p. 31; A. Henry, 'The disappearing Governor-General', Perspective, Radio National, 27 February 2004; D. Marr, 'And to crown it all', *Sydney Morning Herald*, 5 November 2005, p. 29.

7 G. Craven, 'The New Centralism and the Collapse of the Conservative Constitution', *Papers on Parliament*, No. 44, 2006, pp 133-45.

8 Most government decisions are now described as personal decisions of the prime minister. The decision to participate in the Iraq war led to renewed calls for the war-making power to be subject to parliamentary approval, but the Prime Minister has repeatedly described the decision as his personally, eg: "I am prepared to defend what I did …" ABC Radio News, 7.45 am, 21 March 2006.

9 A selection of less temperate descriptions by eminent authors of government control of the House of Representatives is in S. Bach, *Platypus and Parliament: the Australian Senate in Theory and Practice*, 2003, pp 240-2.

10 A Coalition Deputy Prime Minister famously called for the appointment of "capital C conservatives", and apparently soon achieved that aim: D. Solomon, 'Power grab by stealth', *The Courier Mail*, 21 June 2000, p. 17; C Banham, 'Arise Justice Heydon: capital-C conservative elevated to High Court', *Sydney Morning Herald*, 18 December 2002, p. 3.

11 A comprehensive refutation of the "mandate theory" is in S. Bach, op. cit., pp 276-97.

12 Cf J. Rauch, 'Divided We Stand', *The Atlantic Monthly*, October 2004, pp 39-40: "Unified control pushes policy to unsustainable extremes …..".

13 Senate Finance and Public Administration Legislation Committee, transcript of estimates hearing, 13 February 2006, pp 24, 98.

14 Senate Finance and Public Administration References Committee, report on Regional Partnerships and Sustainable Regions Programs, October 2005.

15 *Egan v Willis and Cahill* 1996 40 NSWLR 650; 1998 158 ALR 527; *Egan v Chadwick and others* 1999 46 NSWLR 563. Unfortunately, the Supreme Court held that documents revealing cabinet deliberations could not be compelled by the Council. This does not apply to the federal Houses.

16 Such scepticism has a firm empirical basis: A. Lijphart, 'Australian Democracy: Modifying majoritarianism?', in M. Sawer & S. Miskin, *Representation and Institutional Change: 50 Years of Proportional Representation in the Senate*, *Papers on Parliament*, No. 34, 1999.