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## Australian Parliamentary Democracy After a Century: What Gains, What Losses?



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## Australian Parliamentary Democracy After a Century: What Gains, What Losses?

The Vision in Hindsight: Parliament and the Constitution: Paper No. 4

### ***Vision in Hindsight***

*Vision in Hindsight* is a Department of the Parliamentary Library (DPL) project for the Centenary of Federation.

*The Vision in Hindsight: Parliament and the Constitution* will be a collection of essays each of which tells the story of how Parliament has fashioned and reworked the intentions of those who crafted the Constitution. The unifying theme is the importance of identifying Parliament's central role in the development of the Constitution. In the first stage, essays are being commissioned and will be published, as IRS Research Papers, of which this paper is the fourth.

Stage two will involve the selection of eight to ten of the papers for inclusion in the final volume, to be launched in conjunction with a seminar, in November 2001.

A Steering Committee comprising Professor Geoffrey Lindell (Chair), the Hon. Peter Durack, the Hon. John Bannon and Dr John Uhr assists DPL with the management of the project.



Centenary of Federation 1901-2001

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## Inquiries

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## Major Issues

The Australian system of representative parliamentary democracy is one of a handful which has, across the last one hundred years, shown remarkable stability and flexibility and in which democratic values have thrived. Constitutional and political conventions have continued to evolve reflecting both the stability and flexibility of the system. Despite Australia's own increasing diversity since World War II democracy, stability and flexibility have continued as the defining characteristics of the Australian parliamentary system.

The domination of politics by the Executive makes it easy to downplay the role of Parliament. However Parliament has been central to Australia's success as a stable, flexible, democratic country. Parliament has reflected and indeed helped develop Australia's practical and pragmatic approach to great Constitutional issues and its optimistic approach and willingness to experiment with institutional and electoral arrangements. The Australian political system demonstrates, over time, a remarkable faith in the ability of its parliamentary structures to adapt and deal with changing demands. Representative parliamentary government was established by our Federation Fathers as the hallmark of the political system and has continued to expand and develop over the past one hundred years.

The system revolves ultimately around the role of the Parliament as the centrepiece of elected representative and responsible governing, a system which involves backbenchers as well as members of the Ministry or Shadow Ministry.

A look at the first 100 years of Australian federation shows that representative Government was a foundation stone of the Australian system and has remained so, expanding and changing over the century. The Australian system gives a centre place to the people's ability to vote:

- the Australian people voted for the delegates to the Federation Convention
- when a draft of the Constitution had been created, it was sent to the people for their vote and its acceptance rested on success at the ballot box
- referendums were embedded as the only means for altering the Australian Constitution, and

- a Double Dissolution followed by a general election was the system deliberately chosen to resolve deadlocks between the two elected Houses of Parliament.

Throughout the century there has been an expansion of those eligible to vote and of those able to stand for Parliament:

- at Federation both Houses were uniquely, at the time in the world, to be directly elected by universal male franchise
- by 1904 the vote was extended to women as was the right to stand for Parliament
- in 1962 the Indigenous peoples were enfranchised, and
- in 1973 the voting age was lowered to 18.

Alongside the extension of the franchise were consistent attempts to make the Parliament more representative through alterations to the voting systems:

- at Federation, the secret ballot and the simple majority system were introduced for both Houses
- compulsion in the enrolment of electors was introduced in 1911, as was Saturday voting
- compulsion in voting was brought in for referendums in 1915, and for elections in 1924
- preferential voting replaced first-past-the-post (simple majority) voting for the House in 1918 and for the Senate in 1919
- proportional representation was introduced for the Senate in 1948, and
- in the 1970s 'one vote, one value' was established for the election of the House of Representatives.

Ideas of Representation have also developed across the century. The Australian Parliament has shown itself able to adapt to the changing ideas of representation, giving voice to Australia's diversity; and the changes have enabled the Australian political system to remain stable:

- a stable bipolar party system developed which represented the major economic interests of Australians
- as Australia became more diverse minor parties developed to supplement and complement the economic interests represented by the major parties, adding for example issues concerned with the environment, women, Indigenous peoples, and open government

- parliament reflected the diversity in terms of the election of more women to parliament and in terms of the election of more political parties representing a greater variety of opinion, and
- the Senate has been of particular importance in the expansion of elected representation.

The stable bipolar party system which enabled the vast majority of Australians to identify with, and vote for one or other side, combined with tight party discipline to create a system of stable responsible government has:

- since 1910 (except for the periods of party splits) party discipline ensured the stability of Governments through the control of the majority in the Lower House
- the disciplined parties overwhelmed the Federation Fathers' attempt to create an Upper House that represented the interests of the States. Both Houses became party houses
- the parties overwhelmed the role of Parliament in terms of responsible government and the system became one of responsible *party* government
- the fears at Federation of major conflicts between the Houses of Parliament leading to instability at best, and an unworkable system at worst, proved unfounded
- mass party government and Executive domination of Parliament reached its high point in the 1960s
- since the 1970s minor parties emerged to hold the balance of power in the Senate. As a result that House has challenged the absolute domination of Parliament by the Executive
- parliament has been able to hold governments more accountable than in the past, negotiating amendments to legislation including Budget measures, and holding ministers more accountable for their personal and financial behaviour
- despite the increased role of Parliament, Executive domination remains a hallmark of Australian politics. As a consequence large numbers of voters have become alienated, and have either given their support to minor parties or voted in increasingly volatile and unpredictable ways, and
- the developments in the direction of a more managerialist State represent a fundamental challenge to the idea that the Executive is directly accountable to the elected representative institutions of the Parliament.

The distribution of powers in the Constitution combined with the political norms of Australian party politics and the Australian political culture to create a unique system of parliamentary government, a Washminster Mutation drawing particularly on the systems of the United Kingdom and the US but, from the beginning, created as an original system.

The qualities of the Australian system have, over time, emphasised its unique characteristics. Constitutional and political conventions have continued to evolve to enable the system to adapt in ways relevant to the Australian environment. For example:

- the Federation Fathers believed that, because the Senate comprised men [*sic*] of common sense, it would never use 'its big gun' and reject the Budget. That convention, while sorely tested in 1974 and 1975, still stands
- a convention existed from 1901 until 1975 that Senate vacancies would be filled by members of the party from which the retiring member had come. While that convention was twice broken, political reaction to those breaches, and the consequences of them, led to the successful passage of a constitutional amendment embedding the convention as constitutional law
- as a result of the changed nature in the balance of power between the Governing House and the Senate since the rise of minor parties in the 1960s, a new convention has developed whereby Governments 'stockpile' 'trigger' bills that have fulfilled the constitutional requirements for a double dissolution, thus enabling the Government to call for a double dissolution if the Senate proves too hostile
- the role of the Governor-General continues to evolve. Since the 1975 actions of the Governor-General in dismissing a Prime Minister and dissolving the Parliament, the powers of the Governor-General are recognised as more than symbolic; relations between the Prime Minister and the Governor-General have since that time involved negotiation. The exact limits on the 'appropriate behaviour' of the Governor-General are still not settled
- the Senate has undergone great change. At Federation it was expected to represent the interests of the States, an expectation that was never fulfilled and quickly become obsolete and indeed conventions were established by which the Senate was a second party house, albeit a house where party discipline was, marginally, less tight than that in the popular House. By the late 1940s the Senate appeared irrelevant and its legitimacy was weak. Since the introduction of proportional representation (PR) in 1949 and the development of minor parties the Senate's role as an active second chamber reviewing and, on occasion, rejecting government proposals has been gaining increasing legitimacy, and
- the 19th century conventions of individual ministerial responsibility have, during the 20th century, changed in Australia, as well as in Canada, the United Kingdom and New Zealand. Ministers are no longer expected to be the sole vehicle of responsibility for the actions of government departments and agencies. There is a growing convention since the 1980s that the relevant senior Executive can and should be held accountable, and if necessary, resign. Ministers no longer automatically resign, even on issues of personal culpability. Resignation now rests on the judgement of the Prime Minister.

This examination leads to the conclusions that:

- representative government continues to expand in ways that are essentially reflective of the changing nature of Australia's people and their interests. On the whole that expansion has helped the Australian system remain stable and democratic
- responsible government was embedded quickly into the Australian system and has remained dominant
- because of the highly democratic, open nature, elections quickly developed as the centrepieces of Australian parliamentary democracy and have continued as the major mechanisms through which Governments are seen as legitimate. Largely because of the centrality and legitimacy of elections, Australia's system has shown extraordinary stability, including the relative ease with which it negotiated the Constitutional Crisis of 1975
- Executive domination of Parliament and the domination of the major parties developed quickly in Australia and have continued throughout the century
- Executive domination has been challenged to some extent by the rise of minor parties holding the balance of power in the Senate; and the expansion of the committee system of the Parliament backed by increased expertise and information
- the federal elements built into the parliamentary system in terms of the powers given to the Senate have remained largely submerged, overwhelmed by the political parties, and
- the changing role of Government challenges traditional definitions of responsible parliamentary government.



## **Introduction**

Outside of the requirement for free, regular, unavoidable, non-corrupt, competitive elections, there is no standard set of rules for defining a democracy. As a result, care needs to be taken not to generalise.

This research paper attempts to judge certain aspects of Australia's parliamentary democracy in their own terms.<sup>1</sup> In particular it looks at the relationships between the people and the Parliament as their elected representative institution, and at Parliament's role in holding Government responsible and accountable, examining the ways these relationships have changed across the past one hundred years.

### **The Role of Parliament: a Brief Overview**

At Federation, Australia's parliamentary system reflected its environment and heritage and created a unique set of political institutional arrangements. In the century that has followed that dual tradition continued—the Australian system continues to reflect its environment and heritage, and continues its development as a unique system.

While the Australian system is unique, as in other democracies, the Australian Parliament performs certain tasks. It embodies the 'mass consent' by the people to be governed by forming the link between the will of the people and the acts of the Government. Parliament acts as an electoral college for the Executive (the Government), and can play a part in the selection and deposition of members of the Executive. When a Legislature votes on and approves legislation, and in particular the budgetary bills, it is performing a manifest act of legitimation on the Government of the day.

Finally any constitutional amendment must first gain the support of at least one House of the Parliament.

This paper explores the elements of the parliamentary system which are regarded as democratic and the ways in which they have changed, and looks in particular at the Constitutional and political conventions that have developed over the last one hundred years. The paper 'weighs up' the democratic and populist impulses of the Australian way of doing politics against its more conservative elements. The paper is divided into three parts:

*The Beginnings—colonial times to 1910;*

*Establishing the System—1910–1967: embedding of responsible party government;*

*Continuity and change—1967–2000*

Within each part certain themes will be explored, including:

- the role of the vote and free and fair elections
- the nature of responsible government
- the role of the parties
- the role of the Senate
- Executive-Legislative relations, and
- evolving political and constitutional conventions.

## **The Beginnings—Colonial Times to 1910**

### Democratic Traditions and the People's Vote

Australia's history has, in the main, been one of enthusiasm for a particular form of democracy, largely concerned with the creation of a representative system through the expansion of eligibility to vote and the expansion of those able to stand for Parliament. The ability of ordinary people to vote and to stand for Parliament were seen, in Australia, as the centrepieces of democracy.

The Australian colonies were seen in the second half of the nineteenth century, as the 'democratic laboratory' of the world. Between 1852 and the turn of the 20th century, the colonies abolished plural voting; lifted residency restrictions on voter eligibility allowing large numbers of 'migratory' people such as drovers, shearers, cane-cutters and sailors, to vote; Australia introduced payment for members of Parliament, allowing rich and poor alike to stand for election; gave the vote to women; and, at a time when the secret ballot was still being denounced as 'un-English' in England, and as the 'kangaroo ballot' in America, it was the norm in Australia. The colony of Victoria moved quickly to elect its Upper House, along with the Lower House, a move which can already be seen as marking a radical Australian departure from the Westminster tradition with its hereditary House of Lords, and reflecting the more egalitarian Australian political culture.<sup>2</sup>

The methods through which the Federal Constitution was created also centred around voting. In contrast to the American Founding Fathers, Australia's Federation Fathers were no self-appointed lot, they were voted for by the Australian people. When a draft of the Constitution had been created, it was sent to the people for their vote and its acceptance rested on success at the ballot box.<sup>3</sup>

At Federation, popular democracy as expressed by the vote was firmly embedded in a system in which both Houses of Parliament, Upper and Lower, were directly elected, and universal suffrage was quickly introduced.<sup>4</sup>

Some of the States had been exploring new voting systems which seemed more fair and just than the simple majority (first-past-the-post) systems then in use. In 1900 the Victorian Assembly examined a bill to introduce proportional representation (PR) as the basis to elect Victoria's first Commonwealth senators, and to introduce preferential voting for electing Victoria's House of Representatives members. While this bill lapsed it indicated the openness of Australia to electoral experimentation. More successful were the reforms introduced in 1896 by Tasmania's Attorney-General, and a leading exponent of electoral reform, Andrew Inglis Clark. Tasmania adopted the Hare-Clark method of PR, initially for application in Hobart and Launceston. It was used in 1901 for the election of Commonwealth Senators and Members of the House of Representatives from Tasmania; and was accepted Tasmania-wide in 1907.<sup>5</sup>

The Commonwealth Electoral Bill of 1902 sought to bring uniformity to the election of members of the Federal Parliament. Amongst the ideas canvassed were PR for the Senate, and single-member divisions with preferential voting for the House. As Reid and Forrest commented, 'With the wisdom of eighty-five years of hindsight it is easily seen now that the major proposals of 1902 were decades ahead of their time.'<sup>6</sup>

While these ideas were not accepted, what was introduced was highly democratic for its time—the franchise was broad; the secret ballot was accepted and the electoral systems chosen were broadly democratic: for both Houses the systems chosen were intended to ensure the voice of the majority of the people.

In these developments Australia's constitutional arrangements were radical and created a system closer to mid-twentieth century ideas of representative parliamentary democracy than the late-nineteenth century systems then in existence.

## Federation: Federalism and Responsible Government

While the Federation Fathers decided that responsible government should be the political system of the new Federation, that decision was no foregone conclusion. During the various Federation Conventions that occurred in the 1890s other alternatives were raised, as were concerns regarding the problems with combining federalism and responsible

government. For example, during the 1891 Constitutional Convention debates Alfred Deakin was much concerned that the Constitution be a coherent whole. He believed that federalism could not be combined with responsible government:

If you want the Swiss Constitution, take the Swiss Constitution; if you want the American Constitution, take the American Constitution; but do not attempt to mix them with the British Constitution ... They are taking irreconcilable elements that cannot be made to work in harmony ... to introduce the American Senate into the British Constitution would be an inevitable conflict ... We should beware of combining irreconcilable elements.<sup>7</sup>

In 1897 the Honourable Sir Richard Baker, a South Australian delegate, and President of the Legislative Council in that colony, believed that federalism would be overwhelmed:

The Convention came ... to the conclusion that they would adhere to the cabinet system of responsible government, and that if there were anything in federation which was inconsistent with such a system, that thing must go ... I do not say that we cannot form a workable government with the Executive form of cabinet; but I do say that you cannot form a workable *federal* government, that the machine will not work in the manner intended ... it will not work in the manner the people in the smaller states intend—it will result in an amalgamation instead of a federation.<sup>8</sup>

Despite these misgivings, the Federation Fathers drew extensively on the American, Swiss and British systems, and on colonial experience, and then drew up clauses with respect to the powers of the two Houses of Parliament that were different to all the systems from which they drew. Australia did not simply combine 'bits' of responsible government from Westminster with the federal 'bits' from Washington but created a new set of relationships, unknown in the US, Britain, Switzerland and the colonies. The Australian system was a new species, a species I long ago dubbed the *Washminster mutation*.<sup>9</sup> That is why it needs to be judged in its own terms.

Of course Australia drew in large part on the American model for the details of the federal arrangements. However in the US, federalism is seen as another component in its overall commitment to a 'weak' system of government with divided powers. Powers are divided horizontally among the arms of government (Executive, Legislative and Judicial) and are divided by federalism vertically between levels of government (National, States and Local). Federalism suited America's political traditions not only because it enabled its stubborn, suspicious and very different States to come together in a union but also because it formed another layer of protection against tyranny. There were even some of the American founders who felt that federalism was not sufficient a protection against tyranny. For example:

I have always been apprehensive that misconstructions would be given to the federal constitution, which ... hazard the liberty, independence, and happiness of the people ... unless great care should be taken to prevent it, the Constitution, in the administration of it, would gradually, but swiftly and imperceptibly, run into a consolidated government,

pervading and legislating through all the states, not for federal purposes only, as it professes, but in all cases whatsoever. Such a government would soon totally annihilate the sovereignty of the several states, so necessary to the safety of a confederated commonwealth, and sink both in despotism. (Samuel Adams)<sup>10</sup>

Australia federated almost entirely because it was politically sensible—as a practical, realistic way of bringing the States together for common benefit while protecting their individual interests. There was almost no fear of strong government, let alone fear of the possible tyranny over the people by government. The clearest example of this can be seen in the Federation debates on the election of the Senate. There was no concern expressed about the domination of the people by government.

The idea of copying Washington with a Senate whose members were nominated by the State Governments was rejected outright, and universal male franchise for electing the Senate was accepted enthusiastically. To give one example from the Federation debates the Right Honourable Charles Cameron Kingston (Premier of South Australia) declared:

Let us make the franchise for both houses as broad as possible; let us provide if we can for a uniform franchise ... I have had the opportunity of exchanging views with some of the highest constitutional authorities, amongst whom I may mention Mr Bryce, whose work on the American Constitution has, I am sure, been perused with interest by most Hon. members. One of the causes of the unpopularity of the American Senate is this, that it is not elected by the people ... We propose to avoid all this ... I was, happily, able to supply him (Mr Bryce) with a copy of this bill, and to draw his attention to the provision we propose to make on that subject, and, after the most careful consideration, he was pleased to express his most delighted approval.<sup>11</sup>

The most vigorous debate centred on whether or not the Senate ought to copy America in one respect by incorporating equal representation of the States; or whether representation in the Senate ought to reflect the population of each State—what the Federation Fathers called PR. Those in favour of equal representation looked to America, Switzerland, and the ancient Greek federations: the Achaean League and the Aetolian League; those against also drew on ancient Greece and pointed to the Lycian League.<sup>12</sup>

Despite a strong commitment by many of the Federation Fathers to the 'democratic' idea of representation in proportion to population, almost all of them yielded on the grounds of practicality. For example, the Honourable Isaac Alfred Isaacs (the Attorney-General of Victoria) declared:

The states, as states, according to my view, have no place in the federation ... I cannot understand why it is being insisted upon that equal representation in the senate is to be regarded as any sign at all of state autonomy.<sup>13</sup>

Yet he followed that view with an emphatic declaration:

I have supported equal representation, because I recognise, as a fact, that the smaller colonies so-called—the less populous colonies—will not come into a federation without

it. I recognise that as a matter of fact; it is a political fact, and it is a fact that has the justification of expediency.<sup>14</sup>

## Creating A Second Chamber

The existence of an Upper House in the National Parliament of Australia drew on the traditions of the US, Britain and the Australian colonies. All these systems had created strong Upper Houses to check the Lower. However the reasons for this check varied greatly.

At Westminster a House of non-elected aristocrats actively checked the will of the Government formed from the elected House. The Australian colonies quickly rejected the notion of a 'bunyip aristocracy' but all chose to keep a Legislative Council (elected or appointed) as a second chamber to check the Legislative Assembly.

The American tradition believed in checking 'interests against interests' by pitting the popularly elected Lower House against the interests of the States as represented in the nominated Senate with the overall aim of minimising the powers of government. That view, derived from notions of the separation of powers, was rejected by the Australian Federation Fathers.

When the federal Senate was created it shared elements from all three traditions—colonial, Westminster and Washington. It copied the American model by giving equal representation to the States regardless of population size. It departed from the American model (and of course the Westminster model) by choosing to elect its Upper House. It departed from the colonies by choosing to elect its second chamber by universal male franchise. Virtually all the Federation Fathers assumed that the colonial Upper Houses in the States would disappear. To the creators of Australia's federal Constitution there was little logic for the existence of State Upper Houses: if they were elected on the same basis as the Lower House they were an unnecessary duplication of the democratic will; if they were elected or appointed on a restricted franchise, they were an anti-democratic brake on the popular will.<sup>15</sup>

However an Upper House was accepted as necessary for the new Federation because the smaller States would not join without such a House. Nonetheless many of the Federation fathers were concerned about the powers of the Senate in its role as a check on the popular House. For example, the Honourable Sir Graham Berry (the Speaker in the Victorian parliament) made suggestions to ensure the predominance of the House of Representatives. He drew on what was very much in the Australian democratic tradition, by suggesting that the democratic way out of deadlocks between the Houses was to go to the people via referendum.

... the senate ... may be a large predominant power in the Constitution ... if there be an outlet for deadlocks between the two houses—if there be a referendum to the entire body of the people, so that in the last resort a majority of the people of Australia, the people of the commonwealth will decide any subject in dispute between their representatives in one house and in the other—I can see and acknowledge that a great deal of the objection to equal representation will be done away with ... If the senate is to be a chamber so powerful as not only to obstruct, but largely to dictate the course of events in this progressive part of the world, I should hesitate to recommend ... Victoria to enter the federation upon those conditions.<sup>16</sup>

The idea that a Second Chamber could deadlock a Government over a piece of legislation, and not itself face the people was rejected absolutely. While the idea of holding a referendum on the deadlocked issue was rejected by the Federation Fathers, a number of alternatives were canvassed before the acceptance of the present Constitutional arrangement whereby a double dissolution of both Houses occurs followed by a general election.

Another key concern involved the Senate's powers to reject money bills, a power which meant that the Second Chamber could bring down the House which embodied responsible Government—the Lower House, and with it the elected Government:

(If there is any proposal more calculated to shake the true democrat, any proposal more likely to destroy the responsibility of ministers and the people, and to destroy the powers of the first chamber in dealing with money bills, and, in fact, to give up altogether those democratic demands with regard to the Constitution of parliament which have been so loudly voiced both here and outside, it is this proposal which would suggest that the second chamber should be made stronger than the first, based upon the people's will just as the first, but having a greater strength from having a longer tenure and a continuity of existence.<sup>17</sup>

The complex deadlock procedures, and the clauses with respect to the powers over money bills all reflect compromises negotiated to give the Senate powers sufficient to satisfy delegates from the smaller States and so ensure Federation; and at the same time, to give the Government created from the Lower popular House powers sufficient to ensure that responsible government survived.

The complex arrangements put in place in Australia involved a balancing act. The Federation Fathers had rejected the idea that the Senate could deadlock the government over a piece of legislation and had created the mechanism of the double dissolution to deal with that problem. Yet there was no such mechanism were the Senate to reject the Budget. In a Westminster-based system of responsible government, budget rejection by either House meant that government could no longer continue. The governing party must either yield power to the Opposition, if the Opposition could itself secure the passage of the Budget; or, more likely, the House of Representatives must go to an election. Because the Senate is elected for a fixed term, except when the requirements for a double dissolution have been met, the Senate could remain in power. Thus, in the case of the rejection of the

Budget, the Federation Fathers had put in place a system in which the Senate can force the House to an election, without itself having to simultaneously face the people.

Even in 1897 some delegates were concerned as to whether the balance between the Houses could be maintained. For example, the Honourable Sir Richard Baker from South Australia asked whether:

It is not of the very essence of responsible government that one house should be the predominant partner, and, not only the predominant partner, but the predominant partner to such an extent that the other house rapidly ceases to exercise any real power?

The essence of federation is the existence of two houses, if not of actually co-equal power, at all events of approximately co-equal power.

The essence of responsible government is the existence of one chamber of predominant power. Now, how are we to reconcile two irreconcilable propositions? Let me give Honourable members a little illustration. In South Australia not long ago, the Legislative Council, a council elected on the broadest basis on which any council is elected in these colonies, passed a resolution instructing the Government to do a very simple thing, a matter of which the details are of no importance ... But what did they do? They sat secure with a large majority in the other house, who they thought, and probably correctly, would uphold their inaction. They said, 'We will not do it'; and the Council were powerless to compel them to do it. Will not the federal senate be in the same position if the federal Executive is exclusively responsible to one house of parliament.<sup>18</sup>

Sir Richard went on to draw a simile that has become famous over the last one hundred years:

They had only one way of doing it, and that was by refusing to grant supply ... The fact is that an Upper house ... has only one weapon. It is like a fort which has only one big gun, and that gun so powerful and so uncertain in its effect that they hardly dare to let it off, because it may burst and injure those who occupy the fort, and possibly blow it to pieces. This big gun is the power of refusing to grant supplies, and to thus cause the stoppage of all the functions of government. Of course they cannot use it except in the very last resort. They have no practical power over the Executive.<sup>19</sup>

Despite misgivings such as these, the Federation Fathers chose consciously to create a parliamentary system of responsible government with a Federal Senate which could refuse the Budget and deadlock normal legislation. The system was, at Federation, and continues to be, a uniquely Australian system.<sup>20</sup> Given the practical politics of Federation, the Federation Fathers believed they had created a highly representative system in that the people voted for both Houses; and in cases of legislative deadlock the Government could choose to take both Houses to the people at an election. The Federation Fathers also believed they had created a system of responsible parliamentary government because the Government was created from the majority in the popular House and stayed in power only with the support of that House, and because the House of Representatives alone could initiate and change money bills.

## 1910–1967 Embedding Responsible Government and the Party System

Australia continued its enthusiastic commitment to popular democracy and pragmatic politics. Universal suffrage (with the important exclusion of the Indigenous peoples) was quickly introduced as was the right of all those eligible to vote also to be eligible to stand for Parliament. Australians continued to see democracy as centred on the vote.

When Bryce, whose book on America greatly influenced the Federation Fathers of the Australian Constitution, visited Australia in 1912 he commented that Australia had 'travelled farthest and fastest along the road which leads to the unlimited rule of the multitude'<sup>21</sup> and that the 'voters may indulge their uncontrolled will for any and every purpose that may for the moment command itself to them'.<sup>22</sup> He believed that the Australian system of representative government had enabled the masses to swiftly and completely exert their sovereignty.

While Bryce (and others) had considerable misgivings about such mass democracy, few in Australia shared those misgivings. Australian politicians and parties readily experimented with voting systems which they believed would advance popular democracy and pragmatic politics. Between 1911 and 1962 major reforms to the electoral systems were introduced. Compulsion in the enrolment of electors was introduced in 1911, as was Saturday voting; compulsion in voting was brought in for referendums in 1915, and for elections in 1924. First-past-the-post (simple majority) voting was replaced with preferential voting for the House in 1918 and for the Senate in 1919; and PR introduced for the Senate in 1948.<sup>23</sup>

The introduction of PR into the Senate was heralded as the introduction of a much more democratic system because a number of elections in the 1919–1946 period had produced unfair representation of the parties with very little correlation between the votes received and the seats won. For example, in 1925 the Labor party received 45 per cent of the votes and no Senate seats; in 1943 the UAP/CP had received 38 per cent of the vote and no seats; and in 1946 the Liberal/CP had received 43 per cent of the vote and only three seats. The 1937 result perhaps best illustrated the haphazard nature of the results: Labor with 48 per cent of the vote gained 16 seats; the UAP/CP with 45 per cent of the vote received only three seats.<sup>24</sup>

Despite the unhappiness in the Opposition regarding the timing of the change to PR, the Commonwealth Electoral Bill 1948 successfully passed without amendment. With that change the radical vision of the original 1902 proposals became a reality—with the added bonus of compulsory voting, the commitment to which remained strong both among the people at large and most politicians.<sup>25</sup> Finally in 1962 Australia became a 'modern' democracy with the passage of the *Commonwealth Electoral Act 1962* which enfranchised Australia's Indigenous peoples.<sup>26</sup>

## The Dominance of Responsible Government

The embedding in Australia of a strong, stable, federal system of responsible government seemed to fly in the face of the fears expressed at the Federation Conventions regarding the creation of an inherently inconsistent, and potentially unworkable system.

Simply put, the development of an highly disciplined stable bipolar party system in the 1910 to 1967 period overwhelmed the role of the Senate. Despite a Constitution which gave equal voice to the federal Upper House; despite the fact that the Senate was elected on the same suffrage as the Lower House; and despite the equal representation of the States in the Senate, the hopes of the Federation Fathers that the Senate would be a States' House never eventuated. Party discipline dominated both Houses and the fears about the Senate's capacity to dominate the popular House through the deadlock and Budget provisions, proved unfounded. The prediction that it would never use 'its big gun' proved accurate. The Australian system from 1910 to 1967 largely functioned as a responsible parliamentary government, a fact that would have brought a degree of satisfaction to those Federation Fathers who had never accepted the idea of a federal House at all, let alone one with substantial powers to thwart the Government formed from the Lower House.

## Making the System Work: Political and Constitutional Conventions

To achieve the domination of responsible government, a series of constitutional and political conventions developed which enabled the Australian Constitution to function as if it were (almost) a pure Westminster system. Many of these conventions were identical to those that had developed in Britain, and were simply transferred into the Australian system.

## Forming a Government

The central convention was that the political Executive (the Government) was chosen from among the elected members of the party which had the majority in the Lower House. Ministers are members of the Legislature first and last. The Government (the Executive) as a whole remained in power only with the continued support of the Lower House—the Executive was accountable and responsible to the Lower House. This convention is the democratic heart of the Westminster system: the popular House (the Lower House) selects the Government which remains in power only so long as that House allows; and the popular House and the Executive face the people at elections for judgement together. In addition, individual ministers are accountable to the Parliament for the conduct of their own policy departments and if found culpable of maladministration or personally culpable they are to resign (individual ministerial responsibility).

The political parties brought with them political conventions:

- that elected members almost always vote along party lines and that except in extreme circumstances the majority in the Lower House supports the Government.

These political conventions brought an extraordinary degree of stability to government.

However Australia could not just copy the constitutional and political conventions developed in Britain, because unlike Britain, Australia had a written Constitution which needed conventions additional to those at Westminster in order to translate the Australian system into one of responsible government.

### The powers of the Governor-General and the Senate 1910–1967

According to the written Constitution, the Executive is made up of the Governor-General who is appointed by the Monarch. The Governor-General has the powers to dismiss and prorogue the Parliament at will, and is also Head of the Armed Services. The Governor-General may seek the advice of the Executive Council made up of officers (ministers) whom he (she) appoints. The only restriction on the Governor-General is that these ministers must be members of the Parliament—from either the Upper or Lower House. Nowhere does the Constitution mention the words Prime Minister or Cabinet. It does not describe the parliamentary system of responsible government at all.

The constitutional conventions that developed stressed that, like the role of the British Monarch, the Governor-General must be consulted and that the formal processes be abided by: all bills must be signed by the Governor-General before they become law and the Executive Council must meet and keep formal minutes of its decisions. Other conventions developed that stressed that the position of Governor-General was largely ceremonial and symbolic in that the Governor-Generalship kept the Australian Head of State 'above' and beyond politics. In normal political situations the Governor-General would act on the advice of the 'real' political Head of Government, the Prime Minister. The Governor-General would call elections at the Prime Minister's request and only sign bills into law at the Prime Minister's request.

Conventions developed which stressed that the Senate would not use its powers to challenge major legislation or to reject Supply and destroy the Government of the day (its 'big gun'). The Senate was frequently used as a retirement House by the parties and seen as largely irrelevant.

While these various conventions meant that during this period the Australian system closely copied Westminster, there were still some major differences. At Westminster, there is no written Constitution and the Lower House of Parliament was sovereign. In Australia, with a written Constitution, despite conventions which apparently limited the

role of the Senate and the role of the Governor-General, the Parliament was still subject to the Constitution as interpreted by the High Court and limited by State Governments with significant powers. The written Constitution divides power, as in the US, between layers of government (Federal and State) and separates power between institutions of government with an independent Judiciary and a Parliament with two powerful Houses. Limited government was put in place at Federation and formed the bedrock of the system. The Lower House was not sovereign.

## Political Parties and the Role of Parliament 1910–1967

The domination of Parliament by a disciplined bipolar party system meant that the House of Representatives came to be seen at worst as a theatre of meaningless ritual and at best as a institution under the foot of the Executive. Bagehot's description of the system of responsible government as a system which between elections functioned as an 'elected despotism' was reasonably accurate. While the Opposition could criticise Government policy, they could not force change. Party discipline ensured that the Government could get its way with the Parliament. The domination of Parliament by the Executive appeared complete when in 1963 the House of Representatives abolished its Westminster-based system for dealing with financial legislation. That system had been adopted in 1901 when the House set up Committees of the whole House to deal with Supply, Ways and Means and Money. Reid and Forrest commented that the decision to end its 'Westminster-based superstructure for financial legislation' had been influenced 'by the certainties of party majorities'. With the ending of this special House-based system for dealing with finance, the House had demonstrated the extent to which it was under Executive influence by abandoning 'all pretence at having special financial responsibilities' as well as neglecting its wider legislative responsibilities.<sup>27</sup> These changes raised serious questions as to whether the system could be accurately described as one of responsible government at all!

That the system could develop in this way, with almost total Executive dominance had been recognised by the Federation Fathers. Indeed at the 1891 Constitutional Convention, Sir Samuel Griffith argued that 'the US had adopted the most "opposite" system of government to responsible government' *because* the 'framers of the American Constitution had been frightened by the tendency then lately exhibited in the United Kingdom (UK) of ministers to overawe Parliament'.<sup>28</sup>

The highly disciplined two-party system was the mechanism through which the modern system of responsible party government emerged. As Peter Loveday pointed out, 'federal politics was party politics from the beginning and did not pass through a non-party phase'.<sup>29</sup> From federation onwards, elections were contested by parties: in 1901 three parties (Protectionist, Free Trade and Labor) contested the election and when the first parliament met in May, none of the parties had an absolute majority in either house. Those parties also contested the elections of 1903 and 1906, at which time the Free Traders were renamed the Anti-Socialists. From that time, the main partisan divide came to be socialism

versus anti-socialism and 'it became increasingly clear that it was only a matter of time, manoeuvre and negotiation before the parties were reduced to two—Labor and Liberal'.<sup>30</sup>

Group commitment then was an embedded part of the Australian federal system. Party discipline came to be regarded as natural, 'what had once been a reproach, that a man was a joint in the tail of some leader and was incapable of exercising his own judgment, came to be praised as proper loyalty to party'.<sup>31</sup>

Around a bipolar party system, party discipline and responsible government, was built a system which enabled the Executive to overwhelm the Parliament and which overwhelmed the constitutional conventions of ministerial responsibility and Cabinet responsibility. Party discipline ensured that the Cabinet not the Parliament dominated. Ministers were far more answerable to Cabinet (and indeed to the Prime Minister alone) than to the Parliament as a whole.

Nonetheless the system had great strengths. Unavoidable, highly competitive, regular elections with universal suffrage remained, ultimately, the greatest measure of democratic accountability of Government to the people. The use of compulsory voting; the use of preferential voting for the House; a highly professional system for running elections, and ensuring the fairness of elections; and the relative ease with which the vast majority of the eligible voters could access the polls, meant that the Government formed from the party<sup>32</sup> with the majority of the seats in the House, had great legitimacy.<sup>33</sup> In contrast to the US, Australian Executives could go to the polls with new policies and once elected, successfully introduce those policies—with some dramatic exceptions which usually involved a party split. These splits occurred in both the Labor and conservative groupings, the most important being:<sup>34</sup>

- the 1916 Split in the Labor Party over conscription
- the formation of the Australian Country Party (now the National Party). While this split ended the fusion of non-Labor parties into the Liberal Party that had occurred in 1909–10, it began a formal, continuing relationship between the rural party and the urban-based conservative parties. While relations between these parties were far from smooth, with disagreements often resulting in separate campaigning, the 'Country and Liberal parties ... were united in their opposition to Labor' and that commitment contributed to the stability of the bipolar party *system*
- the 1931 split in the Labor party leading to the emergence of the United Australia Party which combined a group of right-wing Labor members with the Nationalists
- the collapse in the early 1940s of the United Australia Party into what Jaensch called 'warring factions'. The end result of that collapse was the creation, by Robert Menzies in 1944, of the modern Liberal Party, and

- the fifth split occurred within the ALP in the mid-1950s and led to the emergence of the Democratic Labour Party (the DLP).

The first four of these splits involved internal party fissions and realignments while the fifth led to the emergence of a minor party.

Some of the party splits led to the collapse of governments; others kept one party or other out of government for considerable periods. Most of the history of Australian party politics, and the fate of governments from 1910–1973 can be read as leading to, being driven by, or being influenced profoundly by the splits. Issues, ideologies and policies were also influenced dramatically, as were the voting attachments of Australians.

Nonetheless, the Australian bipolar party system itself remained strong, both in terms of party organisation—for these were the only two groupings which fielded candidates in all States and in all, or virtually all seats; and in terms of electorate support, especially in the House of Representatives. The existence of that party system meant that for at least the first sixty years of this century, most commentators believed there was meaningful competition for government between the two party groupings for the people's vote and that the Parliament was representative in that it was believed that the two parties represented the broad economic and political interests of the people.

Except during periods of actual party collapse, the system ensured strong government—an elected Government could guarantee the successful passage of its policies—and Governments justified their actions in populist democratic language. 'Majoritarianism' was seen as the essence of parliamentary democracy—the people elected a party which commanded the majority of seats in the Lower House, and from that party a Government was formed. The policies of that Government should not be thwarted. The only relevant test of a Government's behaviour was judgement by the majority at elections—between elections, the Government's will was the people's will. Between 1910 and the late 1960s that view largely prevailed.

Defenders of the system have called it responsible *party* government arguing that the weak position of the popular House with respect to the Executive did not matter because the parties represented the people and the political Executive was controlled by the parties. Party control was deemed to be equal to democratic parliamentary responsibility. Disraeli had made the point as early as 1848, 'you cannot choose between party government and parliamentary government. I say, you can have no parliamentary government if you have no party government'.<sup>35</sup>

## **Continuity and Change, 1967–2000**

### The Role of Parliament

While party government continued dominant, important changes occurred between 1967 and 2000 marking out this period as different from the earlier periods. The changes involved:

- changing perceptions of the nature of representation and the representative nature of Parliament
- challenges to majoritarianism and to the argument that party government was responsible democratic government
- a weakening of party line voting and the rise of 'ticket-splitting'
- the rise of minor parties and independents
- the strengthening of the Senate's role as a check on the Government (as a traditional Upper House)
- the emergence of women as parliamentary representatives, ministers and as parliamentary and party leaders
- confrontation between the Senate and the Government of the day (of whatever political persuasion)
- the 1975 Constitutional Crisis and the ensuing changes to political and constitutional conventions (and to the Constitution), and
- challenges to the role of Government and the public sector accompanied by challenges to Parliament's role in holding Government accountable and generally to its role in governmental oversight.

## **Representative Democracy and the People's Vote**

### The Major Parties

As briefly mentioned at the start of this paper, to be democratic a system must have unavoidable regular elections in which, in the famous words of Schattschneider, individuals seeking office engage in genuine competition for the people's vote.<sup>36</sup>

Until the late 1960s the major parties in Australia, in the main, were seen to represent the most important political and economic interests in the nation. Mass representation via the highly competitive, adversarial political parties, supplemented by interest group activities, was seen to be a thorough-going system of representative democracy. The party which won a majority of the seats in the House of Representatives was seen as legitimate in democratic terms because it articulated, and reflected, the views of the majority.

However the rise of the 'new politics' (women's rights, student rights, gay rights, black rights, environmentalism, and ideas about participatory open government), challenged the role of the major parties as effective representatives of all the people. Many of the issues of the 'new politics' cut across economic class lines and the parties, and the traditional interest groups, were seen to be inadequate in their responses. They needed to be supplemented with additional forms of representation.

The major parties were criticised also for their authoritarian, closed oligarchic natures. Up until the late 1960s, strong party government had been seen as positive because a democratic system needed stable government in order to give policy coherence to the needs and wishes of the people. The rise of the 'new politics' articulated by an optimistic post-war generation who were influenced by American ideas, brought fresh perspectives. The major parties were seen as rigid and the adversarialism between the parties was seen as excessive and actually subverting the process of good government—it was argued that what was in the public interest was too often secondary to the adversarial battle of the parties. The result was that party membership which was never high declined further, and voters moved away from their absolute loyalty to the major parties and elections became progressively more volatile.

## Democratic Representation

The notion of democratic representation in the Australian Parliament changed. In 1973 the voting age was lowered to 18 and in 1974 the ACT and the Northern Territory were each given two seats in the Senate (the ACT had been given a seat in the House of Representatives in 1948). Another change of importance was to reduce the permissible variation from the quota of electors in each electorate from 20 per cent to ten per cent (plus or minus). In 1983 there were further changes of importance including the provision for party designations on ballot papers and the introduction of public funding. A non-partisan Australian Electoral Commission was also established to ensure the 'overt removal of all final decisions about the conduct of the electoral system—including the definition of electoral boundaries—from the party-political realm.'<sup>37</sup> Thus—despite the *McKinlay* and *McKellar* decisions of the High Court which rejected the argument that the Constitutional phrase 'directly chosen by the people' meant 'one person, one vote'; and despite the rejection at referendum in 1974 of proposals to require substantial equality in population (rather than electors) in all electoral divisions in Australia—the Australian

system, through legislative reform, moved closer to substantial equality in electorates at Commonwealth level.<sup>38</sup>

## Representing Diversity

Despite the changes the Parliament as a whole came under criticism with respect to its representativeness. During the 1910–1967 period, economic interests, as represented by the major parties, were believed to be paramount. The make-up of the individual members of Parliament was seen by most to be secondary to their party membership.

However the 'new politics' brought with it an awareness that the members of Parliament, despite party differences, were remarkably homogeneous. They were white, male, 'Anglo-Australians' and as such did not reflect the diversity of the people of Australia. The long-accepted argument that these Anglo-Australian, white males could represent the world views, values and interests of all Australians, was rejected. There has been a growing commitment that the representatives who make up the Parliament, in the leadership and in both Houses of Parliament should reasonably reflect the broader population in terms of ethnicity, race and gender.

## Ethnicity and Race

Neither of the Australian Houses of Parliament can make the claim to be reasonably representative in terms of the ethnic and racial make-up of the parliamentarians. There is only one senator (new in 1999) of Asian background; only one Aboriginal senator (new in 1999). The vast majority of senators is Australian-born and with the exception of the new senator of Asian background, senators who are born overseas are also from Anglo-Celtic backgrounds. There are seven senators born in the UK (nine per cent); one from Eire, one from Zimbabwe and one from Papua New Guinea. All ten are 'Anglo' or 'Anglo-Australian' in ethnic terms. In addition there is one senator from New Zealand and one from Germany of German/English background.

Because the House of Representatives had no Aboriginal members there were suggestions in the 1990s that Australia should follow New Zealand's path and entrench guaranteed parliamentary seats for its Indigenous people. While such schemes may be admirable, entailing 'noble' malapportionment, (as it is described in the US) they still involve malapportionment, breaching the 'one vote, one value view' of democracy.<sup>39</sup> So far such a change has not taken place.

The House of Representatives has eight representatives born in non-English speaking countries (about five per cent). In addition there are perhaps six to ten representatives who, while Australian-born, come from 'ethnic' backgrounds. Very few members of the federal

Parliament are fluent in a foreign language or speak a language other than English at home.

The Australian population at large has a very different profile. The present mix comprises about 74 per cent 'Anglo-Celtic', 'other European' 19 per cent, Asian 4.5 per cent and Aborigines at around 1.5 per cent. Twenty-three and a half per cent were born overseas. While the majority of these Australians spoke only English at home, 2.3 million (15 per cent) spoke a language other than English at home.

Given that the major changes in Australia's ethnic make-up are relatively recent (post-World War II) it is not surprising that the Parliament does not accurately reflect that ethnic diversity. What remains somewhat surprising is the slowness of the entry of some of the older ethnic communities into elected federal politics, especially among the Greek and Italian communities. However, because by the 1990s these communities were represented within the organisational wings of the major parties and in State Parliament, especially in NSW, it is highly likely that they will gain improved representation in the Federal Parliament. For the moment, however, neither House of the Federal Parliament can make strong claims to be a 'microcosm' of the broader society in terms of ethnicity.

## Gender

In gender terms the representation is much better. While neither House comes near the ideal equity 50 per cent representation of women, there are 23 women Senators in the 1999 Senate, or 28.9 per cent and in the House of Representatives 33/148 Members are women: 22.3 per cent. Female representation within the major parties is very similar. For the House, there are 16 women members of the Labor party, (23.9 per cent); 15 women members of the Liberal party (23.4 per cent). The National party has the lowest female representation in the House, two out of sixteen members or 12.5 per cent. In the Senate the Australian Democrats have the largest female representation, with four women of their nine senators (44.4 per cent). Labor has nine women senators out of a total of 29 Labor senators (31 per cent) while the Liberal Party also has nine out of 31 senators (29 per cent). The National Party has four senators, none of whom is a woman.<sup>40</sup>

While there had been, continuously in Australia since the 1880s, a women's movement which attempted to make women politically aware and gain female representation in the Parliament, no woman was elected until 1942 and progress after that had been very slow. Up until 1980 there had only been 13 women senators and only four women members of the House.<sup>41</sup> Female representation in leadership positions improved dramatically only over the last few years, especially in the minor parties but also in some of the formal leadership positions with the Parliament.<sup>42</sup>

The ministry (at the time of writing in January 2000) contained 42 leadership or quasi-leadership positions in the elected Government. Of the 17 members of the Cabinet itself,

there was only one female minister and she was a Senator; in the Ministry there were another 13 ministers of whom three were women—two from the House and one from the Senate and of the twelve parliamentary secretaries, three were women. Seven women out of 42 positions—17 per cent hardly makes for a ringing endorsement of the openness of the political elites on a gender basis. If the parliamentary secretaries are excluded and only ministers are looked at, there are four women in 30 positions. The Labor Opposition has identical female representation in leadership positions: four women among the 30 positions in the shadow ministries (13 per cent).

While representation in terms of gender is still not equitable it has profoundly improved over the last 25 years and appears to be improving at an increasing rate. According to United Nation figures however Australia's record is not exceptional.

**Table I: Average Percentage of Women among Government Decision Makers by Region, 1994<sup>43</sup>**

	<b>Ministerial</b>	<b>Subministerial</b>	<b>Total</b>
Africa	5.4	6.8	6.3
Latin America and the Caribbean	7.5	11.4	10.4
Western Europe and other developed democracies	15.2	12.3	13.0
Asia and the Pacific	2.9	2.6	2.9
Eastern Europe	2.6	6.1	5.0
World	6.2	7.1	6.8

**Source:** United Nations, 1 February 1995 Commission on the Status of Women, UN Strategies for the Advancement of Women, *Second review and appraisal. Advancement of Women* [gopher://gopher.undp.org:70/00/ecosocdocs/sow/1995/1995--3.en6] 6 June 1999.

## Representing the Majority

With the general challenges to the representativeness of the parliamentarians came criticism of the outcome of Australia's electoral systems in party terms. The first criticism pointed out that the party that won a majority of seats in the House of Representatives at the election did not always win a majority of the vote. Campbell Sharman looked at the vote in the 1998 election. He found that the coalition parties won just under 40 per cent of the first preference vote for the House of Representatives, but gained over 54 per cent of the seats. While the Government secured a clear majority of the seats in the House, the Opposition obtained a majority of the two-party preferred vote. 1998 was the fifth occasion since 1954 in which this occurred (1954, 1961, 1969 and 1990 were the others).<sup>44</sup>

So long as Australia remains committed to the use of single-member constituencies for the election of that House, the distortion between seats won and percentage of the vote gained can occur, a distortion made greater by the requirement that electorates are drawn up within State boundaries. These distortions represent limitations on the claims of the Government formed from the winning party that it speaks on behalf of the 'will of the majority'.

The second basis for the criticism of the representativeness of election results arose from changes in voting patterns—the rise in voters giving their first preferences to minor parties. When minor party voting first arose it was seen as a 'protest vote' by which the voters could register mild dissatisfaction with the major parties, but could 'return' to the 'real' major party of their choice in their second preference. However the 1990s in particular saw substantial, regular increases in minor party voting, not just for the Senate, but for the House of Representatives. In 1998 for example, the minor party (and independent) first-preference vote nation-wide was around 20.4 per cent.<sup>45</sup> In NSW it was 21.5 per cent, an increase of seven per cent on the 1996 minor party vote; which had, itself been an increase of 5 per cent on the 1993 figure. The 1993 figures of 9.6 per cent was itself quite substantial. A volatile electorate, willing to vote for independents and minor parties of both the Left and the Right has become the norm. Even 'safe' seats have seen swings of up to 16 per cent.

While Governments are still formed from one or other major party in the House of Representatives, these Governments, and indeed these parties are no longer automatically seen as representing the wishes of all the people. A substantial minority of Australians (perhaps up to 30 per cent) see the major parties as out-of-touch and unresponsive to their needs. By 1998, a populist minor party, the One Nation Party, attracted around 8.4 per cent of the vote nation-wide, the best 'first showing' of any party in Australia's federal history. Part of that party's rhetoric included an attack on the major parties as unrepresentative of the 'real Australia' and 'elitist'.

## Minor Party Representation

The change to PR in the Senate in 1948 meant that electoral discontent with the major parties could be reflected institutionally because PR gave new parties and independents the chance to be elected—groups of a reasonable size (able to gain at least seven per cent of the vote in a State) stood a reasonable chance of gaining representatives in the Senate. The most important outcome, following the Labor split (referred to above) was the emergence of a new minor party, the Democratic Labour Party which gained 5.2 per cent of the House of Representatives vote in 1955, 9.5 per cent in 1958, and had a dramatic electoral effect by transferring electoral support 'from Labor to the entrenched non-Labor coalition'.<sup>46</sup> Moreover the 1955 election saw the two major party groupings lose their total stranglehold on Senate seats, when Frank McManus, a member of the Anti-Communist Labor Party was elected as a Senator for Victoria with 17.77 per cent of the vote in that

State.<sup>47</sup> A second minor party of importance emerged in 1977. The Australian Democrats was created by Don Chipp, a former minister who resigned from the Liberal party to found the new party which came to occupy the 'middle group' of Australian politics. Since 1977 there has been a steady increase in the number of voters who 'ticket-split' giving their vote in the House of Representatives to one party and their vote in the Senate, to another. It is now the norm for neither major party to hold a majority in the Senate.

**Table 11: Senate Party Composition 1955–1999**

Year	Australian Labor Party	Liberals	Nationals	Democratic Labor Party	Australian Democrats	Greens	Greens (WA)	Independents	One Nation
1955	28	24	6	2					
1958	26	25	7	2					
1961	28	24	6	1				1	
1964	27	30	7	2				1	
1967	27	21	7	4				1	
1970	26	21	5	5				3	
1974	29	23	6					2	
1975	27	27	8					2	
1977	27	29	5		2			1	
1980	26	28	4		5			1	
1983	30	24	4		5			1	
1984	34	28	5		7			2	
1987	32	27	7		7			3	
1990	32	29	5		8		1	1	
1993	30	30	6	7		2	1		
1996	28	29	5	7	1	1	2		
1999	29	31	4	9	1		1	1	

**Source:** G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, op. cit., p. 124, updated to reflect election results since 1987.

Representative parliamentary democracy changed in Australia. It no longer simply meant mass party representation but also, through the Senate, the representation of significant minority opinion.

## Accountability

A major component of responsible government involves the accountability of the Government to the people—through the Parliament. While, throughout the 20th century, election outcomes have been accepted as giving the Government of the day a mandate to govern, that mandate to govern has never meant a mandate to do as the Government pleases. It certainly does not mean a Government unfettered by the democratic requirements of accountability to the elected Parliament. Propriety, responsibility and accountability to the representative institutions of Parliament remain the essence of a responsible, representative parliamentary system.

One of the central constitutional conventions of parliamentary democracies is that the Parliament, as representative of the people, can:

- hold the Executive as a whole accountable, and
- hold individual ministers accountable.

## Parliament and the Executive: Individual Ministerial Responsibility

As Dr Max Spry has said:

Put simply, responsible government means that the Executive Government, chosen from those elected to Parliament, is accountable to Parliament. Integral to the doctrine of responsible government is that of ministerial responsibility.<sup>48</sup>

However ministerial responsibility developed in Australia—along with New Zealand, Canada and in the mother Parliament at Westminster—in ways that give only very limited power to the Parliament over the Executive.

Parliament's role in respect to ministerial responsibility is complex.<sup>49</sup> It involves the convention of answerability by ministers to Parliament, which in turn involves a commitment by ministers to try and keep Parliament accurately informed and themselves accurately briefed. For most of the last century there was also the convention that ministers ought to resign if serious doubt arises over their political or personal competence. It was believed that ministers must be beyond reproach in their personal and financial matters, and resignation was also expected if there were a serious problem of maladministration within their department about which they knew, or should have known. These conventions were the essence of Westminster individual ministerial responsibility. In 1972 a future Prime Minister, Malcolm Fraser stated, that:

If a major blunder occurred in a department, of real importance to Australia, and if the minister were unaware of it, the minister should accept responsibility for the mistake of his department and offer to resign.<sup>50</sup>

While these conventions were publicly affirmed, the empirical record has always been somewhat at odds with them. In Canada, between 1867 and 1984 there was only one resignation due to an error in the minister's conduct of the portfolio and only three for misconduct in office. In Australia by 1988 the Prime Minister of the day, Bob Hawke, referred to the 'barren quest for ministerial resignations'.<sup>51</sup> In their review of ministerial responsibility between 1901 and 1988 Reid and Forrest found that 'in an overwhelming number of the cases where ministers have resigned under pressure the issue at stake has not been their competence or responsibility for instances of maladministration but rather doubts about their personal integrity'.<sup>52</sup>

Sutherland<sup>53</sup> makes the point that while ministers may survive a major attack on their political or personal competence and remain in office, frequently the Parliament has been effective indirectly in enforcing ministerial responsibility because the minister's political credibility is damaged and he or she ceases to wield power over ministerial colleagues. When the next Government is formed or the next Cabinet reshuffle occurs such ministers may not be back in Cabinet at all or may be demoted. Reshuffles or 'a quiet word' from the Prime Minister that a particular individual ought not seek reappointment into the ministry may well be the most effective form of ministerial responsibility and accountability—one imposed on non-performers, weak ministers or ministers who are seen as failing either politically or in a policy capacity.

Ultimately, however, Parliament's power in holding ministers accountable involves the ability to enforce resignations. If individual ministerial responsibility ever meant that ministers were expected to resign for major policy blunders or for serious errors of maladministration by a Government department, it is dead. The evidence is that ministerial resignation is not expected for departmental maladministration. Moreover in Australia (and elsewhere) the lack of resignations over departmental acts or policies was not the result of 'everything being well'. Nor were the issues minor. For example, three of them during the Fraser years (1975–1983)—the Asia Dairy Affair, the Meat Export scandal (both involving fraud and corruption in government authorities); and the bottom-of-the-harbour tax-avoidance scheme (involving fraud and corruption within a government department)—received enormous publicity and lively (to say the least) debate in Parliament. Two ministers knew about the extremely serious nature of the problems, and yet did not resign.

The study undertaken by Barbara Page found that in Australia, as in Britain and Canada, 'ministers do not resign for failings of their departments, even if they knew about them, and even if ... members of their own party think they should'.<sup>54</sup>

Most of the time (as in Canada and Britain) ministers do resign if discovered and pursued by Parliament (and if the media picks up that pursuit) when they are personally at fault (bribery, evasion of customs duty, etc).

Despite the general record of weak conventions of ministerial responsibility, the 1990s saw some parliamentary successes not only in holding ministers answerable to its

committees but in forcing resignations. Whether it was dealing with the Keating Labor Government up until 1996 or the Howard Liberal/National Government from 1996, Parliament demonstrated that it could not be ignored and could, on occasion, hold the Executive accountable for its propriety, for lying to Parliament and in its spending of public monies.

For example, in 1992 and 1994 two ministers resigned over issues of personal and/or financial propriety and for lying to Parliament. In 1994 also Minister Ros Kelly resigned from the Keating Government as a result of the long-running 'Sports Rorts Affair' in the wake of two reports, one by the Auditor General and one by the House of Representatives Standing Committee on Environment, Recreation and the Arts. Both found that her personal administration of the sports facilities program was seriously inadequate with the inference of political bias in the allocation of grants to community groups.

When the Liberal/National Coalition gained Government in 1996, the Prime Minister, John Howard, quickly introduced 'A Guide on Key Elements of Ministerial Responsibility' in order to clarify the expectations about ethical conduct. The Guide 'sets out in summary form the main principles, conventions and rules by which Government at the Commonwealth level is conducted'.<sup>55</sup>

The Guide was to become the centre of a series of clashes between the Government and the Opposition throughout 1996, 1997 and in the first half of 1998. While some ministers survived these clashes, six did not. Links between ministers and business interests were responsible for three resignations; two more resignations were demanded over the misuse of travel allowances involving issues of personal impropriety and of lying to Parliament.

In addition David Jull, the Minister for Administrative Services was forced to resign: he was the minister directly and specifically responsible for administering the travel allowances of members of Parliament.

The resignations of David Jull as Minister in the Howard Government and Ros Kelly as Minister in the Keating Government support the idea that a convention still exists that a minister resigns because of a serious error in the administration of his (her) portfolio. However resignation is not automatic: as Margo Kingston wrote in 1997, 'the usual political alternative—stick by them until they hurt your image, then tell them to go quietly'.<sup>56</sup>

Importantly in terms of the traditional Westminster conventions, nowhere in Howard's 'Guide on Key Elements of Ministerial Responsibility' do the words 'Individual Ministerial Responsibility' appear. Collective Responsibility to Cabinet is discussed specifically. However when it comes to individual ministers there are only (in addition to the issues of directorships, and financial propriety) the following statements:

- Ministers are 'ultimately accountable in Parliament for the overall operation of his/her portfolio', and 'Ministers do ... have overall responsibility for the administration of their

portfolios and for carriage in the Parliament of their accountability obligations arising from that responsibility. They would properly be held to account for matters for which they were personally responsible, or where they were aware of problems but had not acted to rectify them'

- 'Ministers must be honest in their public dealings and should not intentionally mislead the Parliament or the public. Any misconception caused inadvertently should be corrected at the earliest opportunity', and
- Ministers should not exercise the influence obtained from their public office, or use official information, to obtain any improper benefit for themselves or another.<sup>57</sup>

Nowhere in the Guide to Ministerial Conduct is the word 'resignation' used. Moreover the Guide not only declared that ministers do not bear individual liability for all actions of their departments but openly shifts part of the responsibility to the bureaucrats: 'Where they [the ministers] neither knew, nor should have known about matters of departmental administration which come under scrutiny it is not unreasonable to expect that the secretary or some other senior officer will take the responsibility'.<sup>58</sup>

The consequences of not following the guidelines are not specified. The closest to specifying consequences can be found in the 1998 (revised) Guide which states that ministers 'would properly be held to account for matters for which they were personally responsible, or where they were aware of problems but had not acted to rectify them'. What exactly 'properly be held to account' means is not clear. What the Guide states is that ministers 'should consult the Prime Minister when in doubt about the propriety of any course of action'.<sup>59</sup> From the empirical evidence however it is clear that the claimed conventions with respect of individual ministerial responsibility are at best weak. We have travelled a long way from the 19th century Westminster notion that Parliament was the centre for accountable Government, guaranteed through ministerial responsibility.

### **Parliament and the Executive: Accountability of the Whole Executive—New Conventions?**

As discussed earlier, party domination of the House and the conventions with respect to the Senate meant that by the late 1960s the Executive almost totally dominated the Parliament. By 1970 that situation began to change and the Senate began to emerge as a serious, powerful Second Chamber. It was no longer a sinecure, and ambitious senators created six new Standing Committees on Estimates as a basis of scrutinising and challenging the Government's budget proposals.

In 1974 and 1975 the Senate openly clashed with the Labor Government under Prime Minister Whitlam and a number of constitutional conventions were put to the test with dramatic results. The first convention that 'went under' involved the procedures for filling casual vacancies in the Senate. The convention had existed that following the death or

retirement of a Senator, the Senator would be replaced by one of the same party. The breaching of that convention resulted in the Government losing control of the Senate. The second convention that was put under strain involved the passing of the Budget by the Senate. In 1974 when the Senate had twice rejected six bills and had threatened the passage of the Budget, the Government went to the Governor-General and was granted the Double Dissolution of both Houses, an event that had occurred only twice before in Australia's history (1914 and 1951). The Government was returned to office, resolved its Budget problem and with the use of a joint sitting for the first (and so far the only) time in Australia's history, secured the passage of all six bills. However the Government was still not in control of the Senate which again in 1975 delayed the passage of the Budget for that year. While the Senate did not use its 'great gun' and reject the Budget, its concern with the behaviour of the Government was so serious that it delayed the passage of the Budget in an hitherto unheard of way. The convention that the Governor-General acted only on the advice of the Prime Minister (unless the leader was acting illegally) was breached and the Governor-General dismissed the Prime Minister, dissolved the Parliament (without a request from the Prime Minister) and called an election.

These events were a clear reminder that Australia had a written Constitution that granted the Governor-General the authority to act in the above ways, and that conventions (which are after all no more than normative expectations) yield under the force of constitutional authority. Having said that, the constitutional convention that the Senate does not reject the Budget while sorely tested in 1974 and 1975 still stands.

However the convention that existed from 1901 until 1975 that Senate vacancies would be filled by members of the party from which the retiring member had come, was twice broken. As a result, the Government proposed and the people passed a Constitutional amendment (in 1977) to ensure that casual vacancies in the Senate must be filled by a person from the same party. The successful passage of this referendum showed that the people did not approve of Governments manipulating the party composition of the Senate, a composition determined by the vote of the people at elections.

The events of 1974–75 also brought in their wake a new convention. Australian Prime Ministers attempt to ensure that they have what is now known as a 'trigger' bill at their fingertips to fulfill the constitutional requirements for double dissolution:

The policy of stock-piling bills rejected by the Senate in preparation for a double dissolution has been commonplace since 1974, in periods when the Government has not held control of the Senate.<sup>60</sup>

The result is that Prime Ministers have a weapon to use against a Senate which they believe has overstepped its powers.

1975 also demonstrated that the Senate's actions were a legitimate exercise of its powers. As a consequence the Senate further developed its independence and confidence with which to challenge the Government. There is still no convention concerning the limits of

the Senate's powers with respect to the Executive. Indeed it is reasonable to suggest that there is a political convention developing which expects the Senate to play a restrained, but nonetheless active role as a second chamber reviewing and, on occasion, rejecting government.

Since 1975 the role of the Governor-General continues to evolve. 1975 demonstrated that the powers of the Governor-General are more than symbolic, and relations between the Prime Minister and the Governor-General have since that time involved negotiation. In April 2000 there was an example of the delicate nature of the relationships between the Prime Minister and the Governor-General. The Governor-General had initially stated publicly that he would receive, on behalf of all Australians, the document of Reconciliation from the Aboriginal peoples. Following private discussions between the Governor-General and the Prime Minister, the Governor-General will no longer receive the document. While there is a strong constitutional convention that the Governor-General should act with moderation, good judgement and discretion, and under normal circumstances consult the Prime Minister, there is as yet nothing that could be described as a constitutional convention on the exact limits on the Governor-General.

Since the 1970s the Senate and the Executive have engaged in a series of tests over the nature of their relationship. While the Executive remains dominant in the Australian parliamentary system there is some evidence that the 'general trend' in institutional relations lies in the direction of enhanced parliamentary influence over the Executive. A study by John Uhr of the 37th Parliament showed that the Parliament was able to amend substantial numbers of bills. Of the 482 bills considered, 157 were amended with a total of 1812 amendments. Of these over one quarter of the successful amendments were initiated by parties other than the Government.<sup>61</sup> In 1999, because the Democrats controlled the balance of power in the Senate, central portions of the Government's major policy, the introduction of radical changes to the Australian taxation system, including the introduction of a goods and services tax (the GST), had to be negotiated with the Democrats and modifications made. Here is evidence of the weakening of the Executive's absolute control over the Parliament.<sup>62</sup>

John Power described the strengthening of the Parliament's activities in keeping Government accountable as moves towards a bargaining style of politics. In such politics there are no longer clear cut choices; instead policy packages emerge out of negotiation.<sup>63</sup> Power looks at these changes as possibly indicating a move away from the overpoweringly majoritarian style of governing that has dominated Australian politics. What has happened, so far, is that the major parties have been forced to modify some of their policies.

It is tempting to make comparisons with the US Congress. Like an American President, (who has always been in such a position) an Australian Prime Minister today has, from time to time, to negotiate more or less in the open with Senators who hold the balance of power. American-style negotiations have forced Governments to back down publicly over a number of budget positions; American-style pork-barrelling won support for the partial privatisation of Telstra, the main telecommunications operator, when the Government,

needing the support of the two independent senators (Brian Harradine from Tasmania and Mal Colston from Queensland), openly made special offers of extra funding to the States from which the two independent Senators came. The negotiations in 1999 with the Australian Democrats which won support for the profound changes to the tax system including the introduction of a goods and services tax (the GST), were done in private. However the blow-by-blow details were reported extensively in the media and considerable public pressure surrounded those negotiations.

The relative openness of these negotiations is new to the Australian political system. In the US with weak party discipline and cross-party ideological positions, such negotiations are the norm. A president must negotiate a majority on each bill, even when his party has a formal majority in both Houses.

In Australia intra-party negotiations have, of course, always occurred. They are the very stuff of politics. However they have occurred, in the past, behind closed doors when individual backbenchers as well as ministers gain modifications to proposed bills based both on their knowledge of the electoral impact of such proposals and also on their different ideological perspectives.

Prime ministers do not and have never simply imposed their will on their own party members of parliament. When the Coalition is in government closed-door negotiations are very common between the two parties.

When Labor is in office the Caucus (the closed-door meeting of the parliamentary members of the ALP) must be wooed to support a proposal already endorsed by Cabinet; an endorsement which itself often has involved modifications and negotiations. During the 1973–75 Whitlam Labor Government, for example, disgruntled ministers on occasion went to the Caucus to win support and overturn a Cabinet decision. While the details of the negotiations remained secret, the broad positions of the protagonists were frequently leaked to the media in an attempt to influence a position. As a consequence this period saw a sort of half-way mark between the old closed-door negotiations and the more open negotiations that have taken place in the 1990s.

Even with the more open-style negotiation, the Australian system remains a long way from that in the US. In the US there is also much closed-door negotiation by the party leadership to win support for their positions; in addition individual positions are openly hammered out in open-door committees and sub-committees of the Congress. 'Transformative' politics where major legislative changes are made, occurs in the open fora of the Congress in the US and indeed on the floor of Congress itself; in Australia transformative politics usually occurs in the Cabinet and party rooms, the Parliament itself is better described as an 'arena' for legitimation than a place where major legislative negotiation occurs.

The Australian system has been modified towards Power's model, but there are limits to the scope and nature of those modifications. The Australian process gives considerable

leverage on specific issues to the handful of Senators who hold the balance of power; in the United State all legislation, especially the entire budget, is open to negotiation, and the American Executive has to build coalitions on every issue.

The hallmarks of Australian politics remain strong party organisations and Executive dominance of Parliament through powerful party discipline. A strong Senate owes more to the Australian adoption of PR and the emergence of minor parties than it owes to its American cousin. In the American Senate, the interests of the political parties do not overwhelm State or regional interests—especially on economic issues. In the Australian Senate politics is played out strictly along party lines. It is not, and has never been, a States' House despite its having been modelled on that idea, borrowed from the American system.

Australian democracy remains at an institutional level firmly centred around the two major parties. The Executive remains dominant though not unchallengeable. The Senate continues to exercise some power over the Executive to make modifications to legislation; and the Parliament as a whole through its committees and through its expanded information base and expertise has been able to question ministerial behaviour.

There has been frustration on the part of both the Executive and the Parliament at times. While most voters and commentators readily acknowledge that the introduction of PR into the Senate has made the Parliament more representative of the diversity of opinions of Australians, there are serious disputes over the extent of the power wielded by those representing minority opinions. PR not only allows for the possibility that minor parties and independents will gain parliamentary seats but magnifies that representation. The result has been far more than was intended by the Attorney-General of the day, H. V. Evatt, when introducing the bill. While he correctly predicted that the change to PR would enhance the status of the Senate,<sup>64</sup> he did not foresee that minor parties would hold the balance of power in the Senate, and use their status and the major powers given to the Senate by the Constitution, to veto major legislation.

According to critics, the minor parties in the Senate wield power in an highly unrepresentative way by frustrating the will of the majority as reflected in the elected Government. For example, Prime Minister Keating attacked the Senate as 'unrepresentative swill' because it would not bend to the majoritarianism of the numbers in the Lower House. Such a view is strengthened by the fact that usually the Government of the day has gone to an election more recently than at least half the Senate and so, according to this view, the Government speaks on behalf of current electoral opinion. The balance of power in the Senate can, at times, be the result of an election held five or even six years earlier.

Defenders of the minor parties point out that they do not act alone. Minor parties and independents can only frustrate the Government if they act in concert with the major Opposition party and together form a majority in the Senate. The defenders also point out that the Constitution gives the Senate the powers to so thwart a Government, and that the

time-lag with respect to the election of half the Senate, was deliberately built into the system. Moreover the people have twice been asked at referendum to change the Constitution and ensure simultaneous elections of both House and twice rejected the change. The use of the Senate's powers is apparently seen as legitimate and appropriate.

There is no 'correct' answer regarding the best form of representative democracy and no correct answer regarding whether the minor parties in the Australian Senate are behaving in ways which are appropriate in terms of representative democracy.

The Australian Parliament, through the existence of a written Constitution and through the power of the Senate, has become quite different from its Westminster heritage. In that system the Executive reigns supreme. In Australia power is much more limited. Yet the system is also a long way from the weak system of the US. An Australian Prime Minister, despite his frustration with the Senate, has far greater powers through party discipline and Executive dominance than any American President. An Australian Prime Minister can always call an election at will, something an American President can never do. An American President, even with party majorities in both Houses, has extreme difficulty bringing about substantial policy changes. More often than not the President is forced to accept the Congress' political agenda. By contrast, an Australian Prime Minister can impose a policy agenda and succeed with major policy changes—even if it means negotiating a few changes with the Senate. The reforms since 1983 to the public service, education, health, the financial system and industrial relations, under both Labor and conservative governments, demonstrate that strength.

### Threats to Parliamentary Oversight: the Subversion of Accountability?

Since the mid-1980s, there has been a revolution in the role of Government. Many traditional functions of Government departments have been contracted out to the private sector; other areas have been sold entirely or in part to the private sector. The Government has withdrawn from the oversight of the day-to-day operation of many of its business and statutory authorities. The managers have been allowed to manage, while Government has concentrated on policy formulation and the overall steering of these entities.

There has been a clash between Parliament and some of the proponents of the managerialist State, who argued that accountability can be assured by ensuring that the private sector delivers the services contracted to it by Government in a client-sensitive way, and through creating legally enforced contracts ensuring compliance by service providers. This process will also be efficient because there will be competition between service providers which will ensure that 'clients' or 'end-users' have a choice of price and product. These views represent a fundamental challenge to the idea that when public monies are being expended, the public interest is best served and best protected by holding the policy-making arm of Government, the Executive, directly accountable to the elected representative institutions of the Parliament.

Parliament, especially through its committees, has tried to remind the Government that 'letting the managers manage' does not imply 'that only the managers have any right to know how they are managing. A necessary accompaniment of devolution is increased accountability .... The quest for economic rationalism should not blind us to the old philosophical debate about ends and means. Parliamentary committees have a proper interest in both.<sup>65</sup>

In 1998 the Parliament supported the view of the Commonwealth Auditor-General that contracting out of a service 'does not equate to contracting out the responsibility for the administration of the service or the program,'<sup>66</sup> and declared that where:

Public money is expended on the provision of services, the responsibility for that expenditure remains with the government agency contracting the service ... The importance of making the public sector transparent and accountable has been a continuing theme of public administration and the parliamentary process for many years. ... The committee wishes to ensure that these advances ... are not undermined.<sup>67</sup>

Parliament as an institution (and most parliamentarians) are committed to the position that, despite all the arguments since the mid-1980s which attempt to bring the 'accountability of the market' to bear on various Government activities, so long as those activities involve the spending of public monies or are believed to be areas for which the Government must bear a special responsibility (health, the welfare of children, the armed services, the police—for example) the Government as a whole must be accountable to and answerable *through the Parliament* to the people for those monies and those activities. Individual ministers of the Government must be accountable also to the Parliament for their individual behaviour and for the policy area which is under their control. Because they depend on taxpayers' monies as their financial base, all the processes of Executive Government—from the departments and agencies to the statutory organisations and great public institutions such as the ABC and the public universities to the travel accounts of individual bureaucrats—must be subject to parliamentary supervision and public auditing both for financial propriety in an accounting sense and for policy propriety in terms of responsible government.

The tensions between Executive and Parliament continue in this area not least because it is unknown waters—for both.

## Parliament's Role Today

Almost from the first parliament, and certainly by 1910 when party discipline and Executive domination of Parliament were well in place, it has been easy to criticise Parliament as a theatre in which there is a great deal of meaningless ritual and absolute silliness. Notwithstanding those criticisms, Parliament has also, from the beginning, been the theatre in which constant election and leadership campaigns are waged. The existence of the Loyal Opposition in Parliament has meant, and continues to mean, that Parliament

is the forum of a constant, adversarial election campaign between the major contenders for the people's vote at elections and exposes those contenders to public scrutiny and assessment, especially through question time and in the debates in the lead-up to an election. These functions have been strengthened by the increased exposure given by the mass media to important issues of policy, and to the battles on the floor of the parliament, including the important questions of the quality of political leadership.

Parliament continues to guarantee a forum to the Opposition from which it can critique Government, show its credentials as an alternative Government and gain media attention. Weak parliamentary performers, both Government and Opposition members, quickly lose credibility as potential leaders. Parliament acts as a hothouse and Governments and leaders must demonstrate a capacity to be in control. The Opposition and the media will form a partnership in pursuit of a Government not in control of its internal discipline or where the leader is weak. While strong leadership in the Parliament and a domination of the theatre of Parliament are not sufficient for good government they are necessary. Weakness in Parliament inevitably indicates weaknesses within the party and almost always leads to division and leadership challenges. A party cannot concentrate on governing effectively if it is subject to those sorts of problems.

## **Conclusion**

In one hundred years of Australian Government, Australia's report card in terms of parliamentary democracy is a mixed one. There is no doubt that, by and large, representative parliamentary democracy in Australia is strong and healthy. The franchise has been expanded across the century to include women, Indigenous peoples and people between 18 and 21 years of age.

Today Parliament itself reflects the diversity of the Australian people much more so than it had with the emergence of minor parties and independents to challenge the agendas of the major parties and with the election of more women into Parliament and into positions of leadership. There are some indications that Parliament is becoming more ethnically diverse, though its progress in this areas remains slow. Parliamentarians are better educated, improving the quality and expertise of both backbenchers and ministers.

Majoritarianism and Executive domination of Parliament through party discipline developed over the past 100 years as the hallmarks of Australia's parliamentary democracy. The strengths of these developments are that the elected Government has been chosen by the majority at free, fair, highly competitive election, and is in a position, generally-speaking, to put its policies into effect; that the system is stable; and that it has a high level of legitimacy in the eyes of the Australian people. The weaknesses largely centre around the issue of Executive accountability to Parliament, and around the shortcomings of the major parties.

By the 1970s concerns about the insensitivity of the major parties to the concerns of large numbers of Australians led to increased voter volatility at election times and the more-or-less permanent emergence of 'ticket-splitting' by voters ensuring that the party with a majority in the Lower House did not also control the Upper House. Minor parties and independents emerged in the Upper House to hold the balance of power and give voice to 'other' views and other agendas.

By the end of the 20th century, the Australian Parliament is in an improved position to hold the Executive as a whole, and individual ministers, more accountable. Its power largely rests on the power of the Senate. However the entire committee system of both Houses has vastly improved as have the overall levels of information and expertise available to the Parliament on which it can challenge the Executive.

Australia has managed, with relative ease, to maintain a federal system of responsible, representative, democratic parliamentary government. The fears of the Federation Fathers that such a combination would prove unstable were proved groundless. Even during the 1975 Constitutional Crisis the system proved extremely stable and the Constitution proved itself as the great legitimising document of the political system. Representative, responsible government has continued to evolve across the past one hundred years to reflect changing notions of representation and changing ideas about the appropriate balance between the Executive and the Legislature. While majoritarianism, highly disciplined parties, and Executive dominance are still the foundation stones of Australian parliamentary democracy, they have been moderated substantially since the late 1960s. Parliament as an institution may be the weaker partner in the Executive/Legislative relationship but it is far from irrelevant.

Despite all the British and American-born influences, Australian politics and its political system remain distinctively and uniquely Australian.

## Endnotes

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1. There are many excellent sources of analysis of the Australian Parliament. The most comprehensive remains G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, Melbourne University Press, Melbourne, 1989. It has an excellent, comprehensive bibliography. Also recommended is Dean Jaensch and Pat Weller eds, *Responsible Government in Australia*, Drummond, Melbourne, 1980 (including the chapter, E. Thompson, 'The Washminster Mutation'). L. F. Crisp, *Australian National Government*, Longmans, Victoria, 1962 3rd edition or later editions remains outstanding. The Department of the Senate, Parliament House, Canberra has also produced a series, *Papers on Parliament* which is highly recommended. For a complete list, see *Papers on Parliament*, Department of the Senate, Parliament House, Canberra, Number 33, May 1999, pp. 186–191. The web site of the Parliamentary Library is also an excellent starting point for briefing

papers about Parliament and vital issues seminars. See [www.aph.gov.au/library/index.htm](http://www.aph.gov.au/library/index.htm) (29 December 1999). First-class introductions to the political parties are Dean Jaensch, *The Australian Party System*, Allen & Unwin, Sydney, 1983, and P. Loveday, A. W. Martin and R. S. Parker eds, *The emergence of the Australian party system*, Hale & Iremonger, Sydney, 1977.

2. However the franchise for the Victorian Upper House remained restricted—until 1950.
3. The final vote for Federation was overwhelming: 422 788 to 161 077 (72 per cent in favour). In fairness it should be noted that, because voting was voluntary, only 60 per cent of enrolled voters actually voted. These figures and further details are to be found in L. F. Crisp, 1962, *Australian National Government*, 3rd edn, Longmans, Croydon, p. 12. In passing it should also be noted that in the United States where voting is voluntary there has not been a voter turnout close to 60 per cent since 1960.
4. There was a dramatic, anti-democratic exception to universal suffrage: the Franchise Bill of 1902 specifically excluded 'aboriginal natives of Australia, Africa or the Islands of the Pacific'. That exclusion was a conscious, deliberate decision of the Parliament. CPD, 9 April 1902, 9, p 11 453 quoted in G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, op. cit., p. 97. It should be remembered that Australia's democracy was founded on certain race-based assumptions. Non-white races were generally regarded as inferior and not capable of exercising the franchise and other democratic rights. Yet Australia's commitment to democracy was based on ideas of egalitarianism and equality. Notions of a two-tier society of citizens and 'others' were rejected as anti-egalitarian. This perverse logic led in two directions: the exclusion of the Australian Indigenous peoples even from the census—they became political invisibles; and the passage as the first piece of major legislation of the national Parliament of the Immigration Restriction Act. (The White Australia Act). For a fuller discussion of these points see, E. Thompson, *Fair Enough, egalitarianism in Australia*, UNSW Press, Sydney, 1994.
5. The above material is a summary of G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, op. cit., pp. 89–91.
6. *ibid.*, p. 99.
7. Alfred Deakin, *Constitutional Convention Debates*, 16 March 1891, pp. 386–87.
8. *Debates of the Australasian Federal Convention of 1897/8, Second Session, 2–24 September 1897, Sydney, 17 September, 1897. Commonwealth Of Australia Bill, pp. 784–786.*
9. Dean Jaensch and Pat Weller eds, *Responsible Government in Australia*, see E. Thompson, 'The Washminster Mutation', Drummond, Melbourne, 1980, pp. 32–40.
10. Quoted by Josiah Henry Symon (South Australia), delegate to the 1897 Federation Convention, *Debates of the Australasian Federal Convention of 1897/8, Second Session, 2–24 September 1897, Sydney, 10 September, 1897. Commonwealth Of Australia Bill, p. 296.*
11. The Right Hon. Charles Cameron Kingston, QC, MP (Premier, South Australia), *Debates of the Australasian Federal Convention of 1897/8, Second Session, 2–24 September 1897, Sydney, 10 September, 1897, Commonwealth Of Australia Bill, pp. 287–88.*

12. Josiah Henry Symon (South Australia), delegate to the 1897 Federation Convention, Debates of the Australasian Federal Convention of 1897/8, Second Session, 2–24 September 1897, Sydney, 10 September, 1897. Commonwealth Of Australia Bill p. 293 argued for. Henry Bournes Higgins, (Victoria) against.
13. Honourable Isaac Isaacs, (Victoria), delegate to the 1897 Federation Convention, Debates of the Australasian Federal Convention of 1897/8, Second Session, 2–24 September 1897, Sydney 10 September, 1897. Commonwealth Of Australia Bill, pp. 305–306.
14. Honourable Isaac Isaacs, (Victoria) delegate to the 1897 Federation Convention, Debates of the Australasian Federal Convention of 1897/8, Second Session, 2–24 September 1897, Sydney, 10 September, 1897, Commonwealth Of Australia Bill, p. 305.
15. In this view of second chambers, the Federation Fathers were true disciples of John Stuart Mill, who in *Representative Government*, wrote, 'I see little value on any check which a Second Chamber can apply to a democracy otherwise checked ... I attach little weight to the argument oftenest urged for having two Chambers—to prevent precipitancy, and compel a second deliberation; for it must be a very ill-constituted representative assembly in which the established forms of business do not require many more than two deliberations ... one of the most indispensable in the practical conduct of politics is conciliation, a readiness to compromise, a willingness to concede something to opponents, and to shape good measures so as to be as little offensive as possible to persons of opposite views'.
16. Debates of the Australasian Federal Convention of 1897/8, Second Session, 10 September, 1897. Commonwealth Of Australia Bill, pp. 341–42.
17. Bernhard Ringrose Wise, (delegate from New South Wales), Debates of the Australasian Federal Convention of 1897/8, Second Session, 2–24 September 1897, Sydney, 10 September, 1897. Commonwealth Of Australia Bill, p. 322.
18. Debates of the Australasian Federal Convention of 1897/8, Second Session, 2–24 September 1897, Sydney, 17 September, 1897. Commonwealth Of Australia Bill, pp. 284–85.
19. *ibid.*, p. 285.
20. The Canadian Senate could also, in theory, reject the Budget and destroy a government. However the Prime Minister of Canada is able to appoint senators and thus ensure majority support for bills and, of course, the budget.
21. J. Bryce, *Modern Democracies*, Vol II, MacMillan, New York, 1921, p. 181.
22. *ibid.*
23. G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, *op. cit.*, pp. 112–114; see also Michael Maley. *A short history of federal electoral reform in Australia*, Australian Electoral Commission, available at [www.aec.gov.au/history/home.html](http://www.aec.gov.au/history/home.html), 20 December 1999.
24. This section is a summary of G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, *op. cit.*, p. 119.
25. 'Compulsory voting has long been accepted without much complaint within Australia, while being regarded by outside observers as somewhat eccentric' Michael Maley, *A short history of*

- federal electoral reform in Australia, *op. cit.*, Michael Maley is Director, Research and International Services, at the Australian Electoral Commission.
26. There is a popular misconception that the 1967 referendum which gave the Commonwealth powers to make special laws on behalf of the Aboriginal people and removed their exclusion from the census, also gave the Aborigines the vote. 'True' voting equality between Aboriginal and other Australians did not come about until 1984 when enrolment and voting became compulsory for Aborigines, as they were for other Australians.
  27. G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, *op. cit.*, p. 476.
  28. Quoted in Max Spry, 'The Executive Power of the Commonwealth: its scope and limits' Research Paper No. 28 1995–96, Law and Public Administration Group, Parliament of Australia; around footnotes 18 and 19.
  29. P. Loveday, 'The Federal Parties' in P. Loveday, A. W. Martin and R. S. Parker, eds, *The Emergence of the Australian Party System*, Hale & Iremonger, Sydney, 1977, p. 383.
  30. *ibid.*, p. 384.
  31. P. Loveday, 'Emergence: Realignment and Consolidation' in P. Loveday, A. W. Martin and R. S. Parker, eds, *The Emergence of the Australian Party System*, *op. cit.*, p. 453.
  32. While this article refers to the party with the majority of the seats; this should be read as meaning 'the party or coalition of parties' in order to cover the fact that since the 1940s the Conservative Government has been formed from a Coalition, the Liberal Party and the National (Country) Party.
  33. The system still used in the United States makes a stark comparison. Each voter is required to vote at one specified voting area within a constituency. Voting is on a working day, a Tuesday in November, a month when the weather is notoriously unreliable in large sections of the US and voters are expected to stand in often long queues after work in the cold and in the dark. Registration to vote was, until the recent introduction of a system which permits voters to register to vote at the same time as they register their car (motor-voter), extremely difficult in a large number of States. With voluntary voting, little wonder that the turnout is around 50 per cent for presidential elections and between about 35 and 39 per cent for off-year congressional elections.  
  
In Australia, by contrast, voting is on a Saturday which is at least a half-holiday for most people; registration is extremely easy and can be done by picking up a form at any post office, voters can vote anywhere within their electorate, and easily vote outside their electorate as well. How-to-vote cards provided by the political parties make the voting systems easy to use in most instances.
  34. This section draws extensively on Dean Jaensch, *The Australian Party System*, Allen & Unwin, Sydney, 1983, pp. 30–42.
  35. *H C Debates*, Vol. 101, cols 205–6, 30 August 1848.
  36. E. E. Schattschneider, *The Semi-Sovereign People*, Dryden Press, Hinsdale, Illinois, 1975.

37. G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, Melbourne University Press, Melbourne, 1989, p. 124. For a fuller discussion of these changes (and others see pp. 122–131).
38. Brian Galligan, *Politics of the High Court, A Study of the Judicial Branch of Government in Australia*, University of Queensland Press, St Lucia, 1987, pp. 233–234. The cases referred to are: A–G (Commonwealth) ex rel. McKinlay v. Commonwealth (1975), 135 CLR 1 and A–G (New South Wales) ex rel. McKellar v. Commonwealth (1977), 139 CLF 527. The referendum proposal was put to the people on 18 May 1974, Constitution alteration (Democratic Elections) 1974. It sought to make population instead of electors the basis of determining the average size of electorates in each State. It obtained a majority in only one State, NSW and an overall minority of 407 398 votes. *Parliamentary Handbook of the Commonwealth of Australia*, 28th edn, Department of the Parliamentary Library, Canberra, 1999, pp. 540–41.
39. Suggestions for 'special' malapportionment has a long history. Both J. A. S. Mill and G. D. H. Cole supported the idea. In England, the electorates of Oxford and Cambridge were created to ensure that the intellectual elite has a guaranteed place in the Parliament at Westminster. In the United States, since the 1980s, various attempts have been made to create electorates in which black or Hispanic people form a majority. Rather than creating embedded electorates via malapportionment, the Americans have attempted to achieve their goal with some highly eccentric gerrymandering of electorate boundaries. The Supreme Court has thrown out all such attempts. In Australia a Sydney University seat was provided by the NSW Electoral Act of 1858; and the Victorian government's experimented with seats for 'railwaymen' and 'public officers' in 1903 and 1906. More recently Humphrey McQueen suggested plural voting to compensate for lack of power in other fields. For example, a powerful person in economics or politics would get only one vote; while a poor, rural, Aboriginal woman caring for a large family might receive five votes.
40. *Parliamentary Handbook of the Commonwealth of Australia*, 28th edn, op. cit., pp. 643–45.
41. *ibid.*, pp. 640–641.
42. For details see E. Thompson, 'The Senate and the Australian System of Representative Democracy: The Institutional Impact of Proportional Representation', paper presented to the Conference, Representation and Institutional Change, a conference to mark 50 Years of Proportional Representation in the Senate, Political Science Program, RSSH, ANU and the Department of the Senate, 5 August 1999, Parliament House, Canberra, 1999.
43. Australia is very much on a par with similar systems in North America, Europe and New Zealand. At the end of the twentieth century Australia was no radical democratic laboratory in gender terms.
44. William Maley, 'Democracy, Parliament and Responsible Government: Some Additional Observations', *Democracy, Parliament and Responsible Government, Papers on Parliament*, No. 8, June, 1990, p.15.
45. For full voting details see *Parliamentary Handbook of the Commonwealth of Australia*, 28th edn, op. cit., pp. 341–345.
46. Dean Jaensch, *The Australian Party System*, Allen & Unwin, Sydney, 1983, p. 40.

47. G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, op. cit., p. 42.
48. See M. Spry, 'Ministerial Responsibility: Its Changing Content', Research Note No 8 28 August 1995, Parliamentary Research Service, Department of the Parliamentary Library; quoted in Max Spry, 'The Executive Power of the commonwealth: its scope and limits', Research Paper 28 1995–96, Parliamentary Research Service, Department of the Parliamentary Library.
49. For a fuller discussion of ministerial responsibility, see *Australian Journal of Public Administration*, 1998, especially E. Thompson with G. Tillotsen, 'Caught in the Act: the Smoking Gun Theory of Ministerial Responsibility', 1998.
50. quoted in Barbara Page, 'Ministerial Resignation and Individual Ministerial Responsibility in Australia, 1976–89' *Journal of Commonwealth & Comparative Politics*, vol. 28 no. 2, July, 1990, p. 143.
51. *ibid.*
52. G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988 Ten Perspectives*, op. cit., p. 325.
53. S. L. Sutherland, 'Responsible Government and Ministerial Responsibility: Every Reform is its own Problem' *Canadian Journal of Political Science* vol. 24 no. 1, March 1991, pp. 91–120.
54. Barbara Page, 'Ministerial Resignation and Individual Ministerial Responsibility in Australia, 1976–89' op. cit., pp. 141–161.
55. 'A Guide on Key elements on Ministerial Responsibility' Press Release, John Howard 2 April 1996; On-line item 94–1811, p. 1.
56. *Sydney Morning Herald*, 12 July 1997.
57. 'A Guide on Key elements on Ministerial Responsibility' Press Release, John Howard, op. cit., On-line item 94-1811, pp. 4, 13, 10, 11.
58. *ibid.*, On-line item 94-1811, pp. 12–13.
59. John Howard, *A Guide on Key Elements of Ministerial Responsibility*, Department of the Prime Minister and Cabinet, Canberra, December 1998, pp. 13 and 10.
60. G. S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901–1988, Ten Perspectives*, op. cit., pp. 205–206.
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