

Nexus Referendum – summary remarks by Denis Strangman AM

I would like to acknowledge the traditional custodians of the Canberra area and pay respect to the elders, past and present, of all Australia's Indigenous peoples.

These days, when I ask people about the Nexus referendum, they either say that they do not recall the detail, or it was “*before their time*”.

I was in my 'twenties when it took place and I had a front seat. The period was 1965-67, when it was first proposed, postponed for a year, and eventually held in 1967.

With the assistance of files which I had retained from my involvement, and a more recent examination of the available Archives Office files, I have been able to look at both sides of the Nexus campaign during this period.

The result is the twenty-five page outline made available to you today.

I would like to make 10 brief assertions about the campaign, its origins, and result, based on this research.

First, I believe that the Nexus question, which sought to remove section 24 of the Constitution which stipulates that the number of MHRs shall be “*as nearly as practicable, twice the number of Senators*”, was seen by the Government as a way primarily of avoiding a loss of Liberal and Country Party seats predicted to occur if a redistribution was held under the then size of the House of Representatives.

To the Liberals and the ALP, breaking the nexus also had the added bonus of not lowering the quota for election to the Senate and thereby avoiding the presence of any more troublesome DLP or Independent Senators.

Second, the Aboriginal question was included with the Nexus question in the hope that the electorate's good feelings towards aborigines and the anticipated high Yes vote would flow over into a strong Yes vote on the less popular Nexus question.

Third, a major reason for the failure of the Nexus question was that the rank and file and MPs of the Liberal-Country parties and the ALP, despite protestations by their leaders that they were fully supportive of the proposal, “ran dead” in the campaign. It indicated that a nominal “bi-partisan” support is no guarantee of success in a Constitutional referendum nor, for that matter, is a proposal that originates from a Joint Parliamentary Committee.

My **fourth** assertion is that the result achieved what its supporters set out to achieve – i.e. “No more politicians” - by delaying an increase in the size of the House of Representatives and the Senate for seventeen years.

Fifth, the referendum saw the partisan involvement of senior public servants in drafting and advising about the Government's Yes case in a manner which I believe exceeded their proper role.

Sixth, the result prompted a senior electoral office person to intervene in a manner which casts doubt on any suggestion that the Electoral Commission would be a

suitable impartial body to draft the Yes and No cases in any future referendums or plebiscites – a role I am pleased to say the AEC has rejected.

Seventh, from 7 April 1965, when Cabinet first decided to hold the two referendums, until 20 January 1966, when Sir Robert Menzies retired, the nexus proposal represented a gamble that had the potential to waste a lot of political capital held by the Government. This must have been apparent with the Gallup Poll result in May 1965 which showed that the proposal had only 33% support among voters.

There is no evidence in the files or writings that the prospect of an unpopular referendum directly hastened Sir Robert's retirement but the anticipated effort required to achieve a Yes vote must have been a concern. His daughter Heather Henderson said in Canberra three weeks ago "We all felt it was probably time (he retired) and he had been thinking about it (retirement) for a while". Was the prospect of a political defeat on the Nexus the straw that broke the Prime Minister's back?

Eighth, I believe the campaign and the result – when it was eventually held under Mr Holt's Prime Ministership on 27 May 1967 – was an endorsement of the emerging independence of the Senate.

In 1968 political scientist Henry Mayer identified mid-1965 as the start of the change in the Senate from a 'stagnant backwater' to a 'rebellious' Chamber. In 1967 the then Deputy Clerk of the Senate, Mr Roy Bullock, in an article about the referendum, wrote: "*The year 1967 was one of the most remarkable years in sixty-seven years of the Australian Senate's history*". He was referring to occasions when the Government was defeated in one way or another, which commenced in 1965 with a more evenly-balanced and representative Senate.

It would be a brave Prime Minister who sought to tread this path again of seeking to diminish the role of the Senate.

Ninth, indecisiveness by the Yes advocates about the size of the increase in the House of Representatives that they sought, enabled the No advocates to choose their own figure of 24 extra Members of the House of Representatives and frame the debate accordingly. This increase proved to be correct – 17 years later, with the Nexus still intact.

Tenth, the claim by the Yes proponents that the Senate would be in "perpetual deadlock" if the Nexus was retained and the Senate was increased to 72 or thereabouts (it is now 76 with the two sets of Territory Senators) – as happened in 1984 – has proved **not** to be the case in the past 33 years.

There are other historically interesting features of the story contained in the research document you have. On the whole there has been a lack of studies of past referendums. I hope that this paper has filled some of the gaps.

The defeated 1967 nexus referendum Final version (V 16)

By Denis Strangman AM

The author would like to thank the former Clerk of the Senate, Dr Rosemary Laing, for suggesting this article be written. Thanks are also due to Mr Tim Bryant, Director of the Research Section in the Australian Senate, and staff at the National Library of Australia, Australian Archives, Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), and the National Museum of Australia.

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Over fifty years ago I attended Government lectures at the University of Sydney delivered by the late Peter Westerway who outlined the mostly dismal record of referendums to alter the Australian Constitution. ¹ I was intrigued by this aspect of our constitutional history. A couple of years later, in 1965, I was invited to join the staff of Senator VC Gair who had become Parliamentary Leader of the Australian Democratic Labor Party (DLP) in Canberra and one of my first tasks was to assist with the No campaign in opposition to the proposal to break the nexus between the Senate and the House of Representatives. What better way of implementing and extending the knowledge gained in those lectures?

The nexus is contained in section 24 of the Constitution: “The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.” ²

The proposal was one of two put to the Australian electors on 27 May 1967 after an aborted earlier attempt which had been scheduled for 28 May 1966. The other referendum question was the Aboriginals proposal which sought to amend the Constitution so as “to remove the section which prevented ‘aboriginal natives’ from being counted in the national census”, and to remove “the words ‘other than the Aboriginal race in any State’ from section 51 (xxvi)”, which, together with the Census aspect, had a symbolic significance, as well as reinforcing the power of the Commonwealth to make laws for the aboriginal people. ³

The Aboriginals proposal was endorsed by what is still the largest Yes vote in Australian referendum history (90.77%) and the Nexus proposal was decisively rejected in all States except NSW and in the overall national count. At that time it was the fourth highest national No vote (59.75%) in referendum history. ⁴

Although the Nexus proposal and the census proposal had both been recommended in the 1959 Report of the 1956-1959 Joint Committee on Constitutional Review ⁵ my belief in 1965-1967 was that the Government was more concerned about the Nexus question and hoped that the underlying sympathy in the community for aborigines and the Aboriginal referendum question would “flow over” into a decisive Yes vote for the Nexus proposal.

Indeed, according to the author of the historical website “*Collaborating for Indigenous Rights 1957-1973*”, “The government (in 1967) hoped that support for the other constitutional alteration being proposed at this referendum, the breaking of the

nexus between the number of seats in the House of Representatives and the number of Senators, would increase by its association with the more popular alteration of clauses relating to aboriginal people".⁶ Scott Bennett and Sean Brennan wrote similarly in 1999 that "It has been suggested that the Holt Government held these two referenda on the same day in the hope that voters' support for the one, would rub off on the other."⁷ If that was the plan it failed.⁸ But when you look at the Bennett/Brennan citation (which is to C. Howard and C.A. Saunders) the Howard/Saunders claim is equivocal, with the authors stating in a footnote "Very possibly it was not, but certainly appearances were against the Government".⁹

In intervening years the Nexus result has been all but forgotten but the successful Aboriginal question has been commemorated at all available opportunities.¹⁰

I have been able to compare information in the available official files from the period¹¹ with my memory and the working files I had retained from the 1965-67 period. I plan to place these latter files with the National Library of Australia and together with the files held by Australian Archives (some of which still require identification and clearance, including the relevant Cabinet Notebooks) should enable future scholars to obtain an even more comprehensive overview of what happened fifty years ago. There are only a few of us still alive who were politically active in that period.

The decision to hold the two referendums was taken by Sir Robert Menzies' Cabinet on 7 April 1965.¹² The Cabinet submission was initiated by the Attorney-General (BM Snedden). Although the submission does not refer to these following reasons I now believe that the Nexus proposal was prompted by continuing tensions in the Coalition stemming from a proposed electoral redistribution in 1962 based on the then size of the House of Representatives (122 with full voting rights)¹³ and an awareness that an increase in the size of the Senate could make it easier for the DLP to win additional seats in the Senate following its success at the half-Senate election held on 5 December 1964 when Senator Gair (Qld) was elected and Senator F P McManus (Vic) was re-elected. The two Senators took their seats on 1 July 1965 and the numbers henceforth were: LCP 30, ALP 27, DLP 2, Ind 1.

Writing in 1968 political scientist Henry Mayer admitted "Until about 1965 most of us found the Senate extremely dull. There seemed little one could say about it, so we hurried on ... The place was a stagnant backwater, which might be of some marginal use for committee work ... From mid-1965 onwards the image changed. One began to hear of the 'rebellious' Senate, in contrast with an utterly docile House of Representatives ... By 1967, the Senate seemed to be the focus of revolt against the Government".¹⁴

As to why the Aboriginal question was chosen from a smorgasbord of more than twenty constitutional changes recommended in the 1959 Constitutional Review Report, I tend to believe that its selection (apart from the aim of a "flow-on effect") was influenced by three background factors: the widespread publicity generated by the Student Action for Aborigines (SAFA) campaign in 1965¹⁵; a petition campaign during 1962-63 which was directed at Federal Parliament by the Federal Council for

Aboriginal Advancement (FCAA);¹⁶ and agitation by Liberal MHR Mr W C Wentworth, ALP MHR Mr Gordon Bryant, and other MPs.¹⁷

The First Attempt

Proof that the breaking of the nexus was not high on the Government's agenda immediately after the 1959 Report is that it was only next raised in the Federal Parliament on 9 March 1960 when Senator McKenna (Leader of the Opposition in the Senate) unsuccessfully asked a question of Senator Spooner (Leader of the Government) as to when the Government might be able to announce its decisions (on the Joint Committee's recommendations). Senator Spooner said he did not know.¹⁸

A year later, on 13 April 1961, Mr Arthur Calwell (Leader of the Opposition) moved a motion in the House of Representatives that the recommendations of the Constitutional Review Committee be put to a referendum.¹⁹ This debate prompted several contributions, including one from Sir Garfield Barwick (Attorney-General) who threw a proverbial 'bucket of cold water' on the resolution, citing the absence of drafting of the proposed amendments, whether they would be understood by the voters, the expense, and the likelihood of success.

Mr Calwell again raised the Committee's recommendations in a matter of public urgency on 12 April 1962²⁰ and mentioned the nexus again on 4 December 1962 in a motion relating to the redistribution report for NSW which apparently might have resulted in the loss of a seat for that State.²¹

In August 1964 an ad hoc sub-committee of Cabinet had discussed ways of achieving an increase of about twelve in the size of the House without increasing the Senate but they appear to have been put off by the existence of the nexus.²²

On 3 September 1964, when Senator McKenna had given notice of four Bills to amend the Constitution (including the nexus), Mr Calwell had asked the Prime Minister to arrange for any referendums to be held concurrently with the forthcoming half-Senate election (which was actually held on 5 December 1964). The Prime Minister replied "... all my experience indicates that one thing you ought never to do is mix up a referendum with an election".²³

In a discussion about the nexus on 30 October 1964, prompted by an amendment moved by the Opposition to the Representation Bill 1964, the Minister for the Interior (Mr Anthony) made a very revealing statement which was an early indication of hesitancy about the proposal within the Country Party. He said "Speaking for myself I doubt whether any such referendum proposal (about the nexus) would ever be passed."²⁴

On 1 April 1965 Mr Calwell introduced another motion, this time concentrating on four of the Joint Committee proposals, including the Nexus proposal, and pledged the ALP to support referendums to secure the implementation "of each and every one of the recommendations in the report".²⁵ His argument was based on the claim that there was a danger of the Senate being in "perpetual deadlock" because he believed the Senate would have to be increased by an even number (i.e. 24). In response, Sir Robert Menzies indicated that the Government had two of the Committee's proposals under consideration – (1) the division of the Commonwealth into electorates; and (2) the repeal of section 127.

Perhaps in an attempt to divert attention away from the Nexus proposal Sir Robert said that it would require “a great deal of thought” but he nevertheless agreed with Mr Calwell’s reference to the dangers of an increase by 24. Mr Whitlam (Deputy Leader of the Opposition) seconded the motion and spoke immediately about the nexus and referred to the Joint Committee’s report, overlooking Senator Wright’s (Lib Tas) opposition to the proposal to break it, and claimed the recommendation had been unanimous.

Up until this point, parliamentary advocacy for implementing the Joint Committee’s recommendation about the nexus had been confined to the ALP. One wonders if their commitment was only superficial and they saw it more as an opportunity to annoy the Government in the Parliament?

On 23 March 1965 Cabinet commenced discussion of a submission dated 22 February from the Attorney-General (on 4 March 1964 Billy Snedden had replaced Sir Garfield Barwick as Attorney-General ²⁶) recommending the two referendum proposals (breaking of the nexus and abolition of Section 127). The submission contained a highly ambitious “possible timetable” which envisaged a successful referendum outcome, a redistribution conducted between October 1965 and May 1966, and an election for the House of Representatives on 17 December 1966. ²⁷ Cabinet concluded its consideration of the submission on 7 April 1965 and in its decision agreed that the nexus be broken “so that the House may have a flexible future” but rejected as impracticable the plan to hold a redistribution based on a successful referendum result before the next election. It envisaged that the enabling legislation be introduced “not later than the Budget Session of this year, and to hold the referendum during the life of the present Parliament”. It also decided that there be no re-distribution based on the present numbers applying in the House of Representatives. ²⁸

The altruistic-sounding purpose of breaking the nexus so that the House may have a “flexible future” could also be described cynically as enabling a small increase in the size of the House, while keeping the Senate at 60 Senators, and thereby ensuring that the Coalition parties at least had a chance of retaining their existing Members under a new redistribution. At the same time there would be no reduced Senate quota which might favour the DLP and Independents. ²⁹

The *Constitution Alteration (Parliament) Bill 1965*, which was to initiate the nexus referendum machinery, was introduced by Sir Robert Menzies on 11 November 1965³⁰ His main argument was based around the claim that a Senate of 66 (the minimum of one extra Senator for each State, making a total of eleven) would be “perpetually deadlocked”. Furthermore, being unable to elect five and a half senators at alternating elections the people would have to elect six at one election and five at another. Increasing the number of Senators in each State by two would mean a Senate of 72, with six to be elected at each election and would also supposedly result in a (perpetually) deadlocked Senate. Increasing each State’s representation to fourteen would mean a Senate of 84 and a House of Representatives of 168, which would be too large.

Debate on the nexus Bill resumed on 23 November when Mr Calwell pledged the ALP to support the Bill.³¹ Mr Calwell also adopted the argument of Sir Robert that the Senate, under the constraint of the nexus, could only effectively be increased by 24 Senators. The Bill was adopted on the third reading by 108 votes with “no dissentient voice”.

Meanwhile, the DLP had been developing its attitude to the Nexus proposal. On 21 May 1965 the Victorian state executive of the DLP had adopted a resolution in opposition to the Nexus proposal and support for the Aboriginal proposal. When the DLP Senators Gair and McManus travelled to Canberra in August to take the seats they had won in the 1964 half-Senate election they repeated the Party’s opposition which was also endorsed by the party’s Federal Executive in October.³² At that stage, before the Parliamentary debates, the DLP was the only publicly-known centre of opposition to the Nexus proposal.³³

The nexus Bill was introduced in the Senate on 30 November 1965 by Senator Henty (Deputy Leader of the Government), who repeated the arguments used by Sir Robert in the House of Representatives.³⁴ It was debated extensively on 1 and 2 December and adopted by 43 votes to 8, the 8 dissident Senators being: VC Gair (DLP Qld); TL Bull (CP NSW); AED Lillico (LP Tas); FP McManus (DLP Vic); EW Mattner (LP SA); EW Prowse (CP WA); IAC Wood (LP Qld); and RC Wright (LP Tas). All eight Senators voted for the Aboriginal referendum proposal.³⁵

As if laying a “sleeper argument” should the nexus referendum pass, Senator Gair issued a media statement on 2 December 1965 claiming that the 1959 Joint Committee had obtained (unpublished) legal opinions about the relevance of Section 128 of the Constitution to the nexus and that those opinions supported the view that a referendum to sever the nexus would have to be carried by every State.³⁶

In the House debate on the nexus Bill occupied one hour and 28 minutes but in the Senate it occupied eight hours and 53 minutes. In the House the debate on the Aboriginal proposal occupied one hour and 34 minutes and in the Senate, 43 minutes. Writing in 2017, Gerard Henderson (journalist and executive director of the Sydney Institute) suggested that the lack of debate (in the community generally) over question 2 reflected the goodwill towards indigenous Australians a half-century ago.³⁷

Senator McKenna (Leader of the Opposition) led the debate for the Nexus proposal and repeated the argument of Sir Robert and Mr Calwell that under the existing provisions the next increase in the size of the Senate would have to be 24, with an extra 48 in the House, making an addition of 72 extra parliamentarians.

Senator Wright (Lib Tas) was the first of the No Senators to speak. He emphasised that Australia did not need more Senators or MHRs and that an ideal size for the Senate was from 40 to 80 members. He affirmed the role of the Senate as both a States’ House and a house of review and emphasised the importance of the deadlock provisions of section 57 of the Constitution, including the provision for a Joint Sitting of both Houses, in which the position of the Senate would be weakened should the nexus be broken.

In his contribution Senator Gair claimed that the purpose of breaking the nexus was to increase the House by between 25 to 30 members and affirmed his Party's opposition to any increase in the size of the House or the Senate. Extending the argument that the proposal would weaken the Senate within a Joint Sitting he claimed that it would also weaken the position of the Senators in the respective party caucuses.

Senators Wright and Gair represented the two bases of opposition to the referendum proposal – Senator Wright the Constitutional position of the Senate, and Senator Gair the lack of convincing evidence for an increase in the number of MHRs.

The Senators who had voted against the referendum Bill met in Parliament House on 9 December and agreed on a strategy: The argument that a Yes vote is the “lesser of two evils” must be counteracted; all agreed that they did not wish for an increase in either House at the present time; and Senators Gair and Wright were to jointly prepare a draft of the official No case and jointly convene any future meetings.³⁸ The following day the Senate adopted the *Referendum (Constitution Alteration) Bill (No.2) 1965* which provided for the change in the referendum voting system from the use of numerals by the voters to their writing in Yes or No in the square beside the question.³⁹

Senator Wright travelled to Brisbane on the weekend of 18-19 December 1965 and met with Senator Gair and the author in the Parliamentary Offices for two three-hour sessions, during which a preliminary draft of the official No case was agreed, which was accepted by the other Senators with only minor amendments.⁴⁰ Mr J R Odgers (Clerk of the Senate) appears to have been provided with a copy of the draft No case for the purpose of checking its accuracy and responded with corrected figures relating to the costs of MPs and Parliament.⁴¹ DLP Federal Secretary Jack Kane was a member of Senator Gair's staff at the time and played a part in the drafting, forwarding a “journalist's version” to myself and Senator Gair and also warning “... don't let those lawyers get away with a mass of insufferably legalistic arguments. They will be the only ones who will read them”.⁴² The No case was handed to the CEO (Chief Electoral Officer Mr F Ley) on 29 December 1965.

Meanwhile, the Parliamentary sponsors of the Yes case on the nexus and the public servants in their Departments had been busy with drafting the Yes case. According to a Minute to the Attorney-General “Cabinet Decision No. 1352 suggested ‘that the statement of the argument in favour might be constructed, in the first instance, by the Parliamentary Draftsman drawing on the Prime Minister's Second Reading speech and, also, assuming the Opposition supports the Bills, on the speech of the Leader of the Opposition’.” Drafts for Yes cases on both proposals were duly prepared and despatched on 16 December to the Attorney-General and the Prime Minister's Department by the Acting Parliamentary Draftsman (Mr C McComas) but, according to Mr PH Bailey (First Assistant Secretary in the Prime Minister's Department), the drafts “tend to be overly formal” and the Department provided the Prime Minister with alternative texts.⁴³

Mr PJ Lawler (Acting Secretary of the Prime Minister's Department) sent copies of these alternative drafts to Mr BM Snedden (Attorney-General) for clearance with Mr

Calwell and Mr McEwen. Mr Calwell requested that the drafts also be sent to Mr Whitlam and Senator McKenna. Senator McKenna apparently had spent most of the night of 23 December 1965 examining the draft Yes case for the Nexus proposal and came up with 24 amendments. He also preferred a narrative style, rather than the proposed question and answer style. Mr Calwell hoped that the views of Senator McKenna might be accommodated "... to some extent, since the Senator will then be gratified to feel that he has played a part and will be valuable in mustering the support of Labour Senators". Mr Snedden was not supportive of the majority of Senator McKenna's suggestions. Mr Calwell also wished that his name appear beside the Prime Minister's as (authorising/preparing) the Yes case.⁴⁴ Sir Robert was personally involved in a significant way with the content of the case.⁴⁵

Interestingly, Mr Calwell's name did appear but not that of Mr McEwen (Leader of the Australian Country Party) and instead the Prime Minister was cited as authorising the case on behalf of the Government. In the official pamphlet for the 1967 attempt Mr McEwen's name was included, together with those of Mr Holt (Prime Minister) and Mr Whitlam (then Leader of the ALP).⁴⁶

The Yes case for the 1966 attempt was based around a request for a "modest increase" (not enumerated) in the size of the House of Representatives without increasing the size of the Senate. It was claimed the proposed quota of not less than 80,000 people for each electorate would limit any (extravagant) growth in the absence of the nexus. A "permanently evenly divided Senate ... would be disastrous for Parliamentary democracy. It would completely frustrate a Government with a clear majority in the House ...". In the conclusion it was stated that a No vote "would cause this vital and money-saving reform to be delayed for a great many years".

The No case went straight to the point:

- "If you want more politicians vote 'Yes'.
- If you do **not** want more politicians, vote '**NO**'.
- Australia is already overgoverned. What we need is **not more**, but **better** politicians.
- The proposed additional 24 members of the House of Representatives would cost an additional £200,000 per year at least.
- A 'Yes' vote is a vote against the interests of small States and country districts."⁴⁷

On 20 January 1966 Sir Robert announced his resignation as Prime Minister and was succeeded by Mr Harold Holt on 26 January. Sir Robert made no reference to the referendum as a causative factor either then or in subsequent public writings about his political career but the Parliamentary Budget session in the Senate which had commenced in August 1965 and which included a damaging crisis about the IPEC airfreight company, must have provided an indication of a challenging political future for the Coalition.⁴⁸

In January 1966 a Gallup Poll (taken in December) was released which showed a negative response about the Nexus proposal among those polled. The figures were: Yes 23%; No 47%; Undecided 30%. The same question had been asked in May

1965 and the results then were Yes 33%; No 35% and Undecided 32⁴⁹ The No vote had grown significantly. In that era the Gallup Poll was about the only extensive opinion poll which covered political questions and its results were closely studied and noted. Meanwhile, the CEO had proceeded with the printing and assembly of the official pamphlet containing the Yes and No cases for the two referendum proposals ready for distribution to electors on about 17 February, eleven days before the legislated deadline of 28 February.⁵⁰

Mr J D Anthony (Minister for the Interior, who was responsible for the Electoral Office) wrote to the new Prime Minister Mr Holt on 27 January 1966 alerting him to the CEO's timetable. Mr Anthony alluded to "numerous comments in the various papers about the possibility of the Government abandoning the referendum, but my own belief is that we could lose more by 'chickening out' as one paper termed it, than by losing the referendum".⁵¹ This was followed by a letter from the CEO to the Secretary of the Department of Interior conveying his understanding that "a substantial number of members of Cabinet, including Mr McEwen, is anxious to abandon or defer the holding of the Referendum".⁵²

Mr Ley sought legal advice about his responsibility to distribute the pamphlets in such a situation and on 9 February Mr JQ Ewens, Acting Secretary of the Attorney-General's Department, replied that if the Federal Executive Council advises the Governor-General not to issue writs for the referendum, he "would not be under a legal duty to post the pamphlets" and, furthermore, the High Court would be unlikely to issue a writ of mandamus against him.⁵³ However, the Government's stance at that time was that it did not intend to offer such advice to the Federal Executive Council until *after* the Prime Minister had informed Parliament of the deferment at its resumption on 8 March.

On 15 February 1966 Mr Holt announced deferment of both referendum proposals citing a "crowded and unusually active political year" ahead. He also claimed that an intensive campaign would be necessary, in order "to counter uninformed opinion and misleading propaganda already evident, which have adversely affected public support for the (Nexus) proposal".⁵⁴

Senator Gair gave an early indication of the guerrilla warfare-like tactics he would be using against the Government in connection with the referendum proposal. The day following the deferment he issued a four-page media statement declaring the postponement to be a "victory" for the DLP.⁵⁵ Prompted by Mr George Cook, a long-time associate in the DLP in Brisbane, the Senator argued that the Government could not simply abandon the referendum but needed to introduce a repealing Bill in Parliament and referred to a similar case in 1915.⁵⁶ At least 50 letters and telegrams on this subject were sent by individuals and organisations to Mr Ley, most of which "give every indication that they are sponsored by some interested party who has the benefit of legal advice".⁵⁷ An official from his Department reported that Mr Ley "felt the legal obligation on him was so strong that he should have some written advice authorising him not to proceed (with arrangements for the referendum. Including distribution of the official explanatory pamphlet)". A written direction not to proceed

was duly sent to My Ley by Mr Anthony and the pamphlets were pulped, having cost \$177,635 to produce and print.⁵⁸

The Second attempt

For the remainder of 1966 the parties and the Federal Government were mostly preoccupied with the lead-up to the House of Representatives election which was announced on 11 August and held on 26 November 1966.⁵⁹ Curiously, neither the Nexus proposal nor the Aborigines proposal rated a mention in the Prime Minister's policy speech, even though there was a "supplementary statement" on aborigines published conjointly with the policy speech.⁶⁰

We now know that by Decision No 46 taken on 1 February 1967 Cabinet had not forgotten about the postponed proposals and the question of holding a referendum. Cabinet requested that a paper be prepared by the Attorney-General's Department, the Department of the Interior and the Prime Minister's Department. The paper would examine more than just the Nexus and the Aborigines proposals but would also look at the possibility of including other questions viz an increase in the minimum number of House of Representatives members from each State; the expiry of Senators' terms so that concurrent elections may be held; the expiry of the terms for replacement Senators for casual vacancies; and electors from mainland territories voting in referendums.⁶¹

The "paper" (also called a "survey") was submitted to Cabinet by the Prime Minister on 10 February 1967.⁶² The authors acknowledged that in regard to the Nexus proposal it would be difficult to rebut Senator Gair's characterisation of the aim as meaning "more members of Parliament" but the "important angle to emphasize" was that the proposal would "impose limits". The authors suggested that Cabinet consider increasing the minimum electorate quota (it was 80,000 in the 1965-66 attempt) to 85,000 or 90,000. They suggested "a higher minimum might substantially weaken the case against the proposal". The minimum State representation question revolved around the situation in Tasmania and whether it ought to be guaranteed six seats (by Constitutional amendment) even though it might be unlikely to obtain (by population increase) a sixth seat "for many years". The arguments for the concurrent elections proposal included one that it would "emphasize the fact that there is one Parliament". In relation to the casual vacancies proposal the authors warned that "some Senators may treat the proposal as supporting their contention that the Senate is an independent House of Review and would regard adoption of the proposal as confirming their contention". In regard to the Territory voting proposal the authors noted that their votes would only be added to the national aggregate result. Some of the comments contained a hint that the authors were trying to outmanoeuvre the No advocates.

Some in the Country Party "machine" were continuing to have second thoughts about the Nexus proposal. At a meeting of the Federal Council of the Country Party held during 11-12 February 1967 it was resolved unanimously that "it would be unwise to proceed with a referendum as a means of increasing the size of the House of Representatives".⁶³ At a meeting of the Joint Coalition Parties two days later

Prime Minister Holt announced that the necessary legislation would be introduced in the new Session.⁶⁴

In the Governor-General's speech for the Opening of Parliament on 21 February the Government's continuing discussion about its plans were expressed at the very end of the speech, almost as an afterthought: "Its intentions (about the referendums) will be made known in the near future".⁶⁵ Mr Whitlam attempted to prise some more detail from the Prime Minister but was unsuccessful.⁶⁶

When Cabinet met on 22 February 1967 it had before it Submission No 75 (the "survey" of six possible proposals) and Submission No 103 (an alternative proposal for increasing the number of MHRs). Two days earlier, Mr PH Bailey from the Prime Minister's Department had pointed out that there was nothing to stop an increase of one extra Senator for each State but there would be a problem in submitting this to Parliament following defeat of the Nexus proposal.⁶⁷

By Decision No 80 of 22 February Cabinet agreed to proceed with the Nexus and Aborigines proposals but to increase the population quota from 80,000 to 85,000 people. It also decided that whatever the outcome, a redistribution must be effected before the next election. If the Nexus proposal was defeated Cabinet wished to give consideration to the "alternative means" for increasing the size of The House.⁶⁸ That alternative would be an increase of one extra Senator for each State – a solution that neither Sir Robert nor Mr Calwell had agreed with in the first referendum attempt.

On the following day Cabinet decided that the relevant legislation be introduced in the House during the coming week and that "officials of the Attorney-General's Department and the Prime Minister's Department might put forward a draft (of the Yes case) in the first instance, taking the previous 'yes' case as a guide, and suggesting modifications where necessary".⁶⁹

The Prime Minister told the House on the same day that the postponed referendum proposals would proceed – with the divisor changed from 80,000 to 85,000 people thus generating an increase of about thirteen in the size of the House – and that relevant legislation would be introduced in the "next week or two".⁷⁰ An Ad Hoc Committee of Cabinet was charged with finalising the titles of the Bills (on which the referendum questions would be based).

The Prime Minister introduced the two pieces of referendum legislation in the House on 1 March 1967. The Nexus proposal contained the increased divisor as indicated earlier and the Aborigines proposal now provided for removal of the words "other than the Aboriginal race in any State" from paragraph xxvi of Section 51 of the Constitution. It emerged later that a meeting of the Joint Parties had discussed the Nexus proposal for one and half hours that morning.⁷¹

Arguments used by the Prime Minister in his second reading speech included: the range of matters dealt with by MHRs was wider than in the earlier years and the burdens of members had increased considerably; the Commonwealth was now dealing with matters that were formerly the province of the States; there will be an upper limit on the number of members of the House; with an increase of only one Senator per State (under the nexus) the possibility of a deadlocked Senate could be

increased; State representation will be protected by guaranteeing to all States a minimum of ten Senators.

Mr Whitlam followed the Prime Minister and gave his assurance “that my Party, in the Parliament and outside the Parliament, will support this Bill and the referendum without reservation, equivocation or qualification”. He accused “some members of one political party” (i.e. the DLP) as really wanting an increase in the Senate because that is the only place where they could secure parliamentary representation. He referred to the ALP’s support at its 1961 Federal Conference for all the proposals of the 1956-1959 Joint Committee and declared “There can be no question that we will do our best to see that the people know the arguments in favour of this referendum in which we strongly believe”.

In his speech of support Mr Anthony (Minister for the Interior) repeated Mr Holt’s argument for a need to increase the number of members so as to ease “the heavy burden” on “those genuine members who are trying to do their duty”. He referred also to the growth in the weight of work and the volume of legislation. He acknowledged that the Country Party “has never had any firm policy on this matter”. He confirmed that the Federal Council of his party had issued a statement that it was “unwise to have a referendum to break the nexus as a means of increasing the size of the Parliament”.

The nexus Bill was adopted by 114 Members with “no dissentient voice”. The debate in the House of Representatives had taken one hour and 55 minutes and the aborigines Bill, which followed immediately, occupied one hour and 15 minutes.⁷²

The two Constitutional Bills were introduced in the Senate on 2 March with Senator Henty (Leader of the Government) delivering a speech identical to Mr Holt’s second reading speech in the lower house. The Aborigines proposal was adopted after a debate of 38 minutes (75 minutes in the House of Representatives) but the nexus Bill occupied 10 hours and 10 minutes of debating time, mostly during 7-8 March 1967, in contrast with the one hour and 55 minutes in the House of Representatives.

Passage of the two Bills was complicated by a “Call of the Senate”, required by the then Standing Order 234 which would ordinarily require three weeks’ notice be given to Senators but which was reduced to one week’s notice.⁷³

In his supporting speech⁷⁴ Senator Murphy (Leader of the Opposition) cited the endorsement of the Joint Committee’s proposals by the 1961 ALP Federal Conference, as had Mr Whitlam in the lower house. He repeated the argument that the representative “burdens” on MHR’s required extra numbers. He also argued that more MHRs would mean more people from whom to draw for the establishment of select committees. Senator Prowse interjected “Would not that argument apply also to the Senate?” Senator Murphy replied that if one looked at the matter on the surface only, one would say yes but that their representational duties prevented them from engaging in committee work. The point to make is that this explanation was offered in 1967 but in the 1970s Senator Murphy played a major role in the development of the Senate committee system, which has outpaced the development of committees in the House of Representatives during the past forty-seven years.

Curiously, Senator Murphy also accused the Government of subverting the Constitution by its decision not to proceed with the 1966 attempt but there is no record at the time of Senator Murphy or the ALP supporting Senator Gair's protests about the suspension of the referendum process.

Senator Gair was the first of the opponents of the Nexus proposal to speak.⁷⁵ Later, 10,000 copies of his speech were printed for distribution among voters. He reiterated the DLP's opposition to any increase in the size of either House and referred to the Gallup Poll results of January 1966 which showed 47% of respondents in opposition.

Senator Gair sought to personify the nexus by referring to the strong support by Richard Edward O'Connor QC for the nexus, during the Convention debates in 1897. O'Connor was not well known historically and this attempt did not succeed. Senator Gair claimed that the nexus was better than a quota (divisor) as a check against unwarranted increases and preserved the position of the Senate in the National Parliament. Engaging in some hyperbole Senator Gair claimed that "more than 20,000 members of the DLP throughout Australia will spread the No argument amongst their workmates and friends". Coalition Senators listening to his speech who were cognisant of the dependence of their parties on DLP preferences in State and Federal elections must have wondered if a major fight over the issue would be useful and productive.

As anticipated, the other major opponent of the nexus Bill was Senator RC Wright (Lib Tas). He strongly defended the role of the Senate and the nexus and alleged the proposal had been put forward "simply for Party manoeuvring". He opposed an increase in the size of either House but said it was "quite a practicable proposition" (if necessary) to increase the number of Senators by one for each State. Senators Lillo (Lib Tas), Mattner (LCP SA), Turnbull (Ind Tas), and Wood (Lib Qld) also spoke against the Bill.

Senator Prowse (CDL WA) opposed the subject matter of the referendum but voted for the Bill "to give to the people of Australia the opportunity to rebut the nonsense that has been foisted upon them". The Senators who had spoken against the Bill, plus Senator Hannaford⁷⁶, voted against the Bill. Senator Bull (CP NSW) who was in hospital reiterated his opposition in a statement released in Canberra⁷⁷ and Senator McManus (DLP Vic), who was also ill, advised of his continuing opposition.⁷⁸

The Second Reading of the Bill was passed by 48-7 and after a brief debate on the Third Reading the Bill was finally passed 45-7.⁷⁹ However, while the Bill was in the Committee stage Senator Scott (Lib WA), probably at the prompting of the Government, unsuccessfully moved an amendment to change the title. This had some significance because the question on the ballot paper was based on the title of the Bill⁸⁰ but it must surely have had only minor potential for reinforcing the Yes vote.⁸¹ Senator Murphy on behalf of the Opposition opposed the amendment and it was defeated on the voices.

There was now a group of ten Senators opposed to the Nexus proposal with at least one Senator from each State.⁸²

On 7 March the referendums had been set down for 27 May 1967 but there was to be no public announcement of the date until the Bills were through both Houses.⁸³

Senators Gair and Wright were again asked to draft the official No case on behalf of the other Senators. The final draft was formulated on 2 April and at a meeting on 5 April it was agreed that copies of the No case should be made available to the media, prior to its official release by the Chief Electoral Officer, so that it could receive maximum publicity and that Vote No committees should be established in each State.⁸⁴ The No case was substantially the same as that agreed on for the postponed 1966 attempt but, Senator Gair having fortuitously obtained a copy of the “pulped” 1966 official booklet and noting the question and answer approach of the Yes case, the authors also adopted that style.

On 30 March Mr JR Odgers (Clerk of the Senate) had sent Senators Gair and Wright some wording for possible inclusion in the No case. It was based around a characterisation of the Senate as the “States Assembly” but while that suggestion was not incorporated another suggestion that the proposal was the first step of a “plot” was incorporated in the official No case.⁸⁵

On 21 March Senators Gair and Wright had written to Dr Darling (Chairman of the Australian Broadcasting Commission) seeking equal time for the presentation of the No case. They had discovered that equal time had been granted to both sides in the 1951 referendum about communism.⁸⁶

In a Confidential cablegram dated 5 April to Mr Holt who was visiting Taipei, Mr McEwen (Acting Prime Minister) advised that the ABC was considering a 75:25 split for the Yes and No cases but a majority of Cabinet favoured granting equal time. Mr Holt responded that he also favoured equal time. The ABC plans were again discussed by Cabinet on 11 April and on 14 April Dr Darling advised Senator Gair that on the nexus question there would be equal time of 60 minutes on television and 90 minutes on radio. Senators Gair and Wright then wrote to the Controller of Programs at the ABC to advise that in all States except Tasmania the local DLP secretary would be the responsible person to negotiate on these arrangements. Senator Wright was to be the responsible person in Tasmania.⁸⁷

Senator Wright also made arrangements for the No Senators to tape five-minute talks in Canberra at the ABC studios and suggested the following caption be shown behind the speaker “Increase Politicians NO. Help Aboriginal Race YES”.⁸⁸

Each of the DLP State secretaries were familiar with electoral advertising on television and radio. They ensured that the No Senators in their State were accommodated within the allocations but in some cases they and others filled in when slots were vacant. In South Australia, for example, Mr RL Reid, a senior lecturer in Politics at Adelaide University, was associated with the No side and gave at least two supportive radio talks on ABC radio, presumably arranged by the DLP State Secretary Mr Posa.⁸⁹

In NSW a “Vote No” committee had been established with the Clerk of NSW Parliaments, Major-General JR Stevenson, as its secretary, which was noted by the Yes proponents. A biographer later wrote: “A man of decided opinions who

supported the bicameral system, he openly advocated the (successful) 'No' vote in both the State referendum on the abolition of the council in 1961 and the Federal 'nexus' referendum in 1967.”⁹⁰ “Vote No” committees apparently did not get off the ground in the other States, although there were several public meetings which utilised some of the No Senators and DLP representatives.

As early as 29 January Senator Gair had announced Condon Byrne, a barrister and former Senator, as the leader of the Queensland DLP team for the next Senate Election and he played a prominent role in the referendum, touring North Queensland in the final week of the referendum campaign.⁹¹

The Yes side also had assistance from outside the Federal Parliament. In a remarkable article in the “Western Sun”, published by the State Executive of the Australian Labor Party (W.A.), LF Crisp, described as “Professor LF Crisp of the Chair of Political Science, Australian National University” wrote an article entitled “Why the Nexus Should Go”. In this article he excoriated the DLP and accused it of wanting to force increases in the number of Senators so the quota would be lower and “more Senate seats will be brought within reach of this little veto group”.

He went on to say “And so these self-advertised apostles of principle, these self-proclaimed guardians of traditional moral values, are revealed as grasping self-interested manoeuvrers for seats without responsibility, exploiters of an outmoded old Constitution from motives of gross party self-seeking”.⁹²

The campaign was fought mainly in the “free” outlets available to both sides: Parliament, the ABC free time, and the print media, particularly the Letters to the Editor columns, including a Vote Yes letter from a “John Howard” of Earlwood.⁹³ Mr Holt had stated in March 1967 that the Yes case would be stated so clearly and shortly that a long campaign would not be necessary and the Government would rely⁹⁴ on the Press, radio and television.

On 18 May, a little over one week before the referendum, journalist Alan Reid attacked the Senate officers in his column in the widely-read *Bulletin* magazine. He wrote: “I do not like criticising officials. They cannot answer back publicly. I have rarely criticised them in some 30 years of political reporting But I think what follows has to be said: some of the Senate officers seem to suffer from a sense of inferiority as far as the House of Representatives is concerned. To maintain the status of their chamber, some of them help individual Senators to push what they regard as the constitutionally justified role of the Senate to extremes. There is no doubt that some of them are advising the Senate on what should be the tactics of the ‘No’ case in the referendum seeking to break the constitutional nexus between the Senate and the House of Representatives. As I see it this is an intrusion into politics and as such justifies comment. For involved in this issue is a far larger issue than whether postal rises are delayed. At stake is the supremacy of the House of Representatives as the chamber in which the majority provides a Government ...”.⁹⁵

Reid clearly had the Senate Clerk JR Odgers in mind. The reference to “postal rises” related to an occasion on 12 May when the Senate had thwarted an attempt by the Government to raise postal charges.⁹⁶

Mr Alan Reid was not a friend of the Senate. As I recall the situation, the Senate Clerk had basically responded to questions from Senator Gair and other No Senators about constitutional and procedural matters and, as was noted earlier, amended a set of figures on 24 December 1965 within the draft of the official No case for the first attempt. It is true that he did offer a line of argument on 30 March 1967 for inclusion in the draft No case for the second attempt but it was not acted upon.

On 18 May (a broadcast day) the Government arranged a contrived “debate” about the No case in the House of Representatives knowing full well that there were no supporters of the No case in the House. Anticipating this debate Senator Gair had written to Mr Holt requesting to appear at the Bar of the House, so that the No case could be presented but this was not acceded to.⁹⁷ In his contribution Mr Whitlam referred to an increase of one extra Senator in each State, supposedly supported by the DLP, and characterised it as “the Odgers plan”, which the DLP had adopted.⁹⁸ We now know from the Departmental files available that officials from the Department of Prime Minister had been discussing this same idea themselves. Mr Whitlam also attacked Major-General Stevenson’s involvement in the No campaign.

The following day in the Senate Senator Branson (Lib WA) asked Senator Henty (Leader of the Government) about “Mr Whitlam’s cowardly attack on the Clerk of the Senate”. Senator Henty referred to a report of the incident in the Canberra Times that day and deplored the attack “made on a very valued servant of the Senate”.⁹⁹

On 19 May 1967 Senator Gair placed Question No 221 on the Senate Notice Paper asking if the authors of the official Yes case were assisted by full-time officers of the Commonwealth Public Service in the Prime Minister’s Department in the preparation of the Yes case and, if the answer was in the negative, would the Prime Minister make available to the Senate files on the referendum so that they could be examined. I am unsure if this question was prompted by someone “in the know”, or if it was a “fishing expedition” to identify the unpublicised involvement of officials. In any event it was envisaged by Senator Gair as a counter-shot in the referendum campaign. The question was never answered but its mere asking created discussion among public servants long after the referendum had been held.¹⁰⁰

Four months after the referendum Mr Holt’s suggested to his Departmental officials that the reply to Senator Gair’s Question should say that the draft was “prepared outside Government service, it was finally settled by the three signatories (i.e. Holt, McEwen and Whitlam) and secretarial assistance was drawn upon”.¹⁰¹ This was disingenuous to say the least. Mr PH Bailey (First Assistant Secretary who, in December 1965 with the first attempt, had conveyed “alternative” versions of the Yes case to the Secretary of his Department) advised his superior, Mr Yeend, that “I have almost come to the view that we could say that it is appropriate for official assistance to be given for any referendum ...”.¹⁰²

By way of an inquiry from Sir John Bunting (Secretary of the Prime Minister’s Department), Sir Frederick Wheeler (Chairman of the Commonwealth Public Service Board) was brought into the discussion and he advised that the statutory framework (i.e. the Referendum Act) “does not give any support” to the proposition that it is

perfectly proper for Public Servants to prepare referendum cases. He concluded: "... the more I think about it, the more I tend to feel that referenda are, despite their differences from elections, nevertheless in practice within the field of party politics".¹⁰³ His opinion was not incorporated into the Department's draft responses.

On 16 October 1967 Sir John Bunting advised Mr Holt that yes, there had been assistance but "not in the sense of creating argument".¹⁰⁴ By February 1968 Mr Bailey had advised the Secretary of a new proposed wording: "Assistance in its preparation was given as required by full-time officers of the Public Service in accordance with Ministerial instructions".¹⁰⁵

The issue of public service involvement in referendums had not been completely put to rest and on 12 March 1974 an official from the Department of Urban and Regional Development contacted the Department of Prime Minister and Cabinet (PM&C) in relation to his Department's possible involvement in the forthcoming referendum on local government bodies. He was told that their (PM&C) involvement was limited to the preparation of the Yes case and any subsequent variations were carried out at the political level, in the Prime Minister's Office. He was alerted to the unanswered question from Senator Gair in 1967 and advised that the wording from Mr Bailey (see above) had been agreed at departmental level.¹⁰⁶

Referendum Day and the Aftermath

The result¹⁰⁷ of the Nexus referendum was:

State	Enrolled	Votes	For		Against		Informal
				%		%	
New South Wales	2 315 828	2 166 507	1 087 694	51.01	1 044 458	48.99	34 355
Victoria	1 734 476	1 630 594	496 826	30.87	1 112 506	69.13	21 262
Queensland	904 808	848 728	370 200	44.13	468 673	55.87	9 855
South Australia	590 275	560 844	186 344	33.91	363 120	66.09	11 380
Western Australia	437 609	405 666	114 841	29.05	280 523	70.95	10 302
Tasmania	199 589	189 245	42 764	23.06	142 660	76.94	3 821
Total for Commonwealth	6 182 585	5 801 584	2 298 669	40.25	3 411 940	59.75	90 975

Obtained majority in one State and an overall minority of 1 113 271 votes.

The estimated cost of holding the two referendums had been \$1,041,000.¹⁰⁸ A perusal of post-referendum reports from Divisional Returning Officers and Commonwealth Electoral Officers for the States reveals several common themes: occasional misuse of the specimen ballot paper in the official pamphlet as a ballot paper; lack of publicity and activity by political organisations, including a diminished number of party workers outside the polling booths; and a last-minute realisation by voters that referendums were being held.¹⁰⁹

The Prime Minister Mr Holt was "delighted" with the Aboriginals result but reiterated his pre-poll opinion that a majority for No on the nexus "would be a victory for prejudice and misrepresentation". He believed that "the majority of electors chose to ignore the advice of those to whom they normally look for guidance on political

issues ... Saturday's vote was not so much against the breaking of the nexus with the Senate as a vote against more politicians of the National Parliament. This view, however ill-advised we might regard it to be, nevertheless must be accepted as representing a strong persuasive force at least during the life of the present Parliament".¹¹⁰

Senator Gair saw the nexus result as "a great triumph" for the ten No Senators and declared "the Australian voter proved that he does not wish to see an increase in the number of parliamentarians".¹¹¹ Senator Wright said that the outcome was a tribute to the understanding of the Australian people, and Tasmanians in particular. He added "The small States have shown that they recognise the value of the Senate as a unit of the Federal Parliament".¹¹²

Mr Whitlam said he was disappointed with the result and would now like to see a referendum on the abolition of the Senate.¹¹³ He said "The abolition of the Senate would be a great contribution to Australia. The Labour Party would be in favour of this".¹¹⁴

Despite the generally low-key activity throughout Australia on referendum day an episode in Adelaide had implications for electoral and referendum law. In Adelaide ALP MHR Mr Clyde Cameron picked up a bundle of DLP Vote No cards from a polling booth and forwarded them to the State CEO (Mr Summers) claiming they were illegal and misleading. Mr Summers forwarded a sample to the Deputy Crown Solicitor for his opinion. DLP State Secretary Mr M Posa later reported to the author a visit from the Commonwealth Police to the printers seeking confirmation about the South Australian How to Vote card.

The CEO in NSW also forwarded to Mr Ley in Canberra five copies of How to Vote cards authorised by Senators Gair and Wright and commented: "I know that the top part 'How to vote NO more politicians' is misleading really, but to place the word 'More' before 'Politicians' in Question 1 is downright deliberately misleading. As the misrepresentations of the DLP were one of the major factors in a 'NO' vote being returned, I feel this is something which could warrant the setting up of a Court of Disputed Returns – (under) Part VI, Section 27 of the Referendum (Constitution Alteration) Act?"¹¹⁵

On 2 June 1967 Mr Ley sent a memorandum to the Secretary of the Attorney-General's Department seeking his advice about the how to vote card and copied in the two State CEOs. On 23 August Mr ACC Menzies on behalf of the Secretary of the Attorney-General's Department responded that in relation to the (NSW) card there was no evidence before him that the card was, in fact, authorised or printed by these persons (i.e. Senators Gair and Wright). Furthermore, Mr Menzies distinguished between directions that might mislead or interfere with an elector "*making* his decision to vote" and in "*the casting* of his vote, that is to say, the actual operation of marking the ballot paper." He went on to say: "Accordingly, I would not, myself, think that the card could be regarded as misleading or interfering with an elector in or in relation to the casting of his vote".¹¹⁶ This was copied to the CEOs in South Australia and NSW and there the matter rested with no action being taken.

The partisan opinions expressed by the NSW CEO in this instance underline the inappropriateness of the Australian Electoral Commission (AEC) acting as a “neutral body” for drafting the official referendum cases, a role that was wisely rejected by a spokesperson for the AEC in 2009.¹¹⁷

Interestingly, the campaign and result did not unduly handicap the career of Senator Wright.¹¹⁸ As we now know, Prime Minister Holt disappeared on 17 December 1967 and former Senator Gorton became Prime Minister on 10 January 1968. Prime Minister Gorton appointed Senator Wright as a Junior Minister for Works and Minister in Charge of Tourist Activities from 28 February 1968.

Nor did the DLP suffer at the 1967 Senate Elections. Its vote increased from 8.4% in 1964 to 9.8% and two extra Senators were elected (Senator Condon Byrne, Queensland and Senator Jack Little, Victoria).¹¹⁹ Senator Turnbull was also returned as an Independent in Tasmania.

The “strong persuasive force” of the nexus result, as noted by Mr Holt, lasted much longer than the “life of the present Parliament”, which was dissolved on 29 September 1969. Indeed, there was no major increase in the size of the House of Representatives or the Senate until seventeen years later at the Federal Elections of 1 December 1984 when the Senate was increased from 60 to 72 (2 extra Senators per State) and the House from 124 to 148 (a total increase in Parliamentarians of 36).¹²⁰ “Perpetual deadlock” did not ensue, as the Yes campaigners had confidently predicted.

The Federal result may also have had a “slowing effect” on the temptation of State Governments to increase the size of their lower houses. In the following ten years most of the increases in State lower houses were relatively small, apart from an increase of 39 to 47 seats for the South Australian House of Assembly for the May 1970 election, a size which continues to this day.¹²¹

At the Federal level the No campaign was a resounding historical success but the DLP Senators were not there in the long term to see its lasting effects - all five of its existing Senate representation were defeated at the 1974 Double Dissolution Election.

As memories of the emphatic 1967 defeat faded there were perfunctory attempts to again seek to break the nexus. A draft Bill was endorsed by Plenary Sessions of the Australian Constitutional Convention in 1975 and 1976. Senator Macklin (Australian Democrats) did succeed in 1983 in getting the Senate to pass a similar Bill. Also in 1983 the Attorney-General (Senator Evans) referred the subject for consideration by the Australian Constitutional Convention. The Constitutional Commission in 1988 recommended that it be broken and in a summary of the evidence from submissions the author of the summary noted the strong support for breaking the nexus given by former Clerks of the House of Representatives NJ Parkes, JA Pettifer and DM Blake.¹²² No doubt they were just as strongly opposed to the nexus as had been the Senate Clerk JR Odgers in his support for it.

But in 1967 the No side had promised the Australian people “no more Parliamentarians” and for a significant period that was the case at the Federal level.

One can debate the nature of the No Senators' arguments but they achieved what they had set out to do. The result might not have been as emphatic as that for the Aboriginal question but it deserves its place in referendum history.

¹ Dr Peter Westerway, who died in 2015, was secretary of the NSW ALP 1969-1973, a former Chair of the Australian Broadcasting Tribunal, a former Member of the Industries Assistance Commission, and a former senior public servant (Commonwealth). See Biographical File, National Library of Australia and other news items.

² Taken from Part 1 – Annotated Constitution, page 15, *Constitutional Change – Select sources on constitutional change in Australian 1901-1997*. Standing Committee on Legal and Constitutional Affairs. House of Representatives. Presented by Hon Kevin Andrews, 24 March 1997.

³ See page 59, “*Select sources*”, op.cit. This is one of the more concise summaries of the contents of the proposed amendment. The *Parliamentary Handbook* uses the words “(it) also sought to “give the Commonwealth Parliament power to make laws with respect to Aboriginal people wherever they lived in Australia”. See page 394, *44th Parliamentary Handbook of the Commonwealth of Australia*. 2014. Henry Reynolds has suggested “... the referendum must be seen as an event of central importance. A symbolic event enshrined in history ...”. “Aborigines and the 1967 Referendum: Thirty Years On”, in *Papers on Parliament* No 31, June `1998. Pages 55-69. See:

<https://www.aph.gov.au/binaries/senate/pubs/pops/pop31/pop31.pdf> Accessed on 2 April 2017.

⁴ See Part 5 “Referendums and Plebiscites”, *44th Parliamentary Handbook*, op.cit.

⁵ 1959 *Report*, Joint Committee on Constitutional Review. Census proposal, Chapter 9, paras 381-398, pages 54-56, Nexus proposal, paras 43-44, page 6.

⁶ “*Collaborating for Indigenous Rights 1957 – 1973*”. (Accessed 16 March 2017).N.B. This website is linked to from the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) website and the National Museum of Australia (NMA) website and sits within the NMA webserver. The NMA Duty Curator wrote to the author on 2 February 2017: “Your query has come to me as Duty Curator, the point of call for public enquiries. The website you reference is hosted by the Museum but was created, about 10 years ago through an ARC grant, by (Dr) Sue Taffe who is a researcher at Monash: <http://profiles.arts.monash.edu.au/sue-taffe/> “

⁷ “*Constitutional Referenda in Australia*”, Scott Bennett and Sean Brennan, Research Paper No 2 1999-2000. Information and Research Services, Department of the Parliamentary Library, page 21.

⁸ There is some retrospective evidence from post-referendum correspondence from some Government backbenchers to the Prime Minister, Mr Holt, that a small group of MPs might have been motivated by a significant concentration of aboriginal voters in several electorates. The MPs included Mr W C Wentworth and Bob Katter (Snr). See folios 13, 27, 39, 39 (a) and 132. *Commonwealth/State policy consequent upon referendum on Aborigines – 1967/68 papers*. Prime Minister’s Department. Australian Archives. NAA. Series A1209, File 1967/7512.

⁹ “Constitutional Amendment and Constitutional Reform in Australia”, C. Howard and C.A. Saunders, in *Public Policies in Two Federal Countries: Canada and Australia*, ANU Press, 1982, pages 72-73.

¹⁰ The present author wrote about the Nexus referendum in a university textbook in 1979: Two Defeated Referendum Proposals, 1967 and 1977”, Chapter by DS in “*The Pieces of Politics*”, second edition, 1979. (ed) Richard Lucy. The Macmillan Company. Pages 338-348. The then Deputy Clerk of the Senate wrote about the nexus referendum soon after its defeat. RE Bullock, “The Australian Senate and the 1967 Referendum (‘Breaking of the Nexus’) Proposal”. *The Table*. Vol XXXVI for 1967. The aboriginal result has been commemorated and written about at all available opportunities, including the 10th, 15th, 20th, 25th, 30th and 40th anniversaries. We have now reached the 50th anniversary for both questions. See, for example, the publication released in the 30th anniversary year, “*The 1967 referendum, or, When Aborigines didn’t get the vote*”. Brian Attwood and Andrew Markus; in collaboration with Dale Edwards and Kath Schilling. 1997. AIATSIS. See also John Gardiner-Garden. Background Paper 11 1996-97. *The Origin of Commonwealth Involvement in Indigenous Affairs and the 1967 Referendum*. Parliamentary Library: “Many popular notions associated with the 1967 Referendum belong in the category of myths. The referendum was not whole-heartedly supported by both sides of politics, did not end legal discrimination, did not confer the vote, equal wages and citizenship on indigenous Australians and did not permit for the first time Commonwealth government involvement in Aboriginal Affairs”. Indeed, 2017 represents the anniversary year for a diverse range of events – the 100th anniversary of the Russian Revolution; the 75th anniversary of the fall of Singapore and the bombing of Darwin; the 50th anniversary of the last judicial execution in Australia; and the 50th anniversary of the introduction of decimal currency.

¹¹ While researching for this article new requests for access were put on hold until July 2017 by Australian Archives as they transferred 15 million files between repositories in Canberra.

¹² Decision Number 841, 7 April 1965. Reproduced in *Collaborating for Indigenous Rights* website (op.cit).

¹³ See page 799, Appendix 11. Electoral Divisions – Number at General Elections. *44th Parliamentary Handbook*. An article in the magazine *Nation* on 25 February 1967 “Referendum Revived” claimed that NSW Liberal headquarters believed that the Liberal Party “stands to lose, and the A.L.P. stands to gain six seats in the Sydney metropolitan area if redistribution goes ahead without a previous enlargement of the total numbers in the House of Representatives”. When a redistribution was actually held in 1968 it was the first since 1955. Mackerras wrote in 1969: “The Government had allowed the situation to drift for so long that the result has been a particularly massive redistribution, very much bigger than the previous one in 1955”. Page 1. Malcolm Mackerras. *The 1968 Federal Redistribution*. ANU Press. Canberra. 1969. There were still tensions between the Liberal Party and Country Party in April 1965 about a redistribution when the Nexus proposal was under active consideration. The Liberals wanted to govern in their own right and the Country Party wanted to ensure they continued as an influential “tail”. See Alan Reid, “Reversing the Roles”, *The Bulletin*. April 10 1965, pages 14-15. Reid repeated this theory about the Liberals in an article later that year. See: “The Coming Clash”, *The Bulletin*, December 25 1965, pages 14-15. Writing in 2010 George Williams and David Hume drew attention to the “vast demographic changes” by 1967 where some electorates had almost 125,000 voters, while others had less than 40,000. “... it was expected that the Liberal Party and particularly, the Country Party would lose a swath of seats in any redistribution” (under the then boundaries), they wrote. Page 146, *People Power, The History and Future of the Referendum in Australia*. George Williams and David Hume. UNSW Press. Sydney. 2010

¹⁴ Introduction by Henry Mayer in *“The Australian Senate, 1965-1967: who held control?”*. Malcolm Mackerras. Sydney: Australasian Political Studies Association, 1968. APSA monograph; no. 9. Page 1.

¹⁵ In her book about the freedom ride Professor Ann Curthoys mentions that Mr Peter Manning and the author (DS) distributed an open letter to SAFA supporters in 1965 warning of communist involvement in Aboriginal politics. This is correct. See page 222, *Freedom ride: a freedom rider remembers*. Ann Curthoys. Allen and Unwin. 2002. She suggests that this seemed to have little effect “as communist students continued to work in SAFA, though in a small minority” but there is ample evidence in her book and other sources that the SAFA leader Charles Perkins was careful to avoid an impression that SAFA was communist-inspired. See, for example, the comment by Perkins’ biographer Peter Read “Perkins and Spigelman took care there did not appear to be too many members of the Communist Eureka Youth League (on the tour)”. *Charles Perkins – A Biography*, Peter Read, Viking. 1990. Page 101. See also page 109 where Perkins rejected the offer of a public address system from a Waterside Workers representative. Spigelman wrote later that the WWF representative had been accompanied by a reporter from the communist newspaper Tribune. See “Bus Tour Reactions”, Jim Spigelman, *Dissent*. Winter 1965, number 14. Page 47. Perkins’ approach may have reduced scepticism in the community about the ride. The Manning/Strangman open letter is available in the Warwick Richards papers which form part of the *Papers of Ann Curthoys*, MS 4186, held by AIATSIS. A sympathetic article about the freedom ride was contributed by DS to *News Features*, Vol VI, No 3, March 30, 1965 “Australian Students Champion Civil Rights for Aborigines”, published by the Institute for International Youth Affairs in New York and distributed to 15,000 contacts worldwide. (Copy located in *Strangman Papers*, op. cit.). Mr Manning, who later became producer and executive producer of the ABC Four Corners program, has charted his subsequent ideological change in Chapter 5, entitled “In the middle of a dream”, in *“What did you do in the Cold War, daddy? personal stories from a troubled time”*. Ed by Ann Curthoys and Joy Damousi. Newsouth. 2014. The ride generated enormous publicity in the daily media during 1965, which was the year when the referendum was first mooted publicly by the Menzies Government.

¹⁶ According to the website *“Collaborating for Indigenous Rights 1957-1973”* (op.cit) the national petition form ‘Towards equal citizenship for Aborigines’, circulated throughout the country during 1962-63. The target was 250,000 signatures but only 100,000 were collected (still a very respectable number) and “over a seven-week period in 1963, every sitting day in the House of Representatives began with the tabling of these petitions”.

¹⁷ Mr Arthur Calwell had introduced his Private Member’s *Constitution Alteration (Aborigines) Bill 1964*, in May 1964, which proposed the repeal of s127 of the Constitution and the words ‘other than the aboriginal race in any State’ be removed from s51 (xxvi). Mr Bryant was involved in the National Petition campaign. Mr Wentworth in March 1966 introduced a Private Member’s Bill proposed the

whole of s51 (xxvi) be deleted and a new anti-discrimination s117a be incorporated. See the website “*Collaborating for Indigenous Rights 1957-1973*” (op.cit).

¹⁸ *Parliamentary Debates (P.D.)*, Senate, 9 March 1960, page 23.

¹⁹ *P.D.* House of Representatives, 13 April 1961, pages 806-823. Interestingly, Mr Calwell appeared to have forgotten that Senator Wright had dissented from the Nexus proposal so long as the Joint Sitting mechanism was part of the procedure to resolve deadlocks. (See *Joint Committee on Constitutional Review Report*, op.cit, page 178, para 12.) Mr Calwell did remind the House that the Committee had also recommended that the Senate remain at 60 Senators. The full report of the Joint Committee had been tabled in the Senate on 26 November 1959, following the committee’s reconstitution to develop reasons for the recommendations it had made in 1958. See *P.D. Senate*, 26 November 1959, pages 1899-1900. The Report did receive a passing reference in the Governor-General’s 1960 speech in which it was stated that the Government was considering the “lengthy and carefully report”. See *P.D. Senate*, 8 March 1960, pages 7-10.

²⁰ *P.D.* House of Representatives, 12 April 1962, page 1631. Mr Calwell stated: “The Government, I find, has drafted some proposals since the matter came before the Parliament last year. The committee’s recommendations that have already been drafted include all those relating to the relative sizes of the two Houses of the Parliament ...”. Sir Garfield Barwick (Attorney-General) stated that he could “see no urgency” (in putting the proposals to referendum). See *P.D.* House of Representatives, 12 April 1962, page 1637.

²¹ *P.D.* House of Representatives, 4 December 1962, page 2866 ff.

²² This is mentioned in a draft paper for Cabinet dated February 1967 prepared for Mr Anthony by the CEO. NAA. Series A406. File E67/30. *1967 Referendum – Constitution alteration – Main file*.

²³ *P.D.* House of Representatives, 3 September 1964, pages 937-938. Sir Robert had had extensive involvement with past referendums, which has been outlined in Professor Anne Twomey’s Chapter “Menzie’s, the Constitution and the High Court” in *Menzie’s The Shaping of Modern Australia*, JR Nethercote (ed). Connor Court Publishing in association with the Menzie’s Research Centre, 2016.

²⁴ *P.D.* House of Representatives, 30 October 1964, page 2587.

²⁵ *P.D.* House of Representatives, 1 April 1965, pages 528-549.

²⁶ Williams and Hume have written: “Sir Garfield Barwick, Attorney-General in the Menzie’s government, did not support the (nexus) recommendation, and it did not progress while he remained a Minister. However, after Barwick was appointed as Chief Justice of the High Court in 1964, the proposal was dusted off and adopted by the Menzie’s Cabinet in 1965”. *People Power – The History and Future of the Referendum in Australia*, George Williams and David Hume, op. cit. page 146.

²⁷ Cabinet Submission No. 660, 22 February 1965. Reproduced in *Collaborating for Indigenous Rights* website (op.cit).

²⁸ Cabinet Decision No. 841, 7 April 1965. Reproduced in *Collaborating for Indigenous Rights* website (op.cit). Also available at page 343 ff of the digitised version of *Constitutional Amendments 1965 – Referendum*. NAA Series A4940. C4257. Prime Minister’s Department, Cabinet Secretariat. The Prime Minister repeated the information in a reply to a question from Mr Calwell. See *P.D.* House of Representatives, 28 April 1965, page 923. At a meeting of Cabinet on 20 October it was decided that section 7 also be amended to “preserve to each of the Original States at least the present number of ten Senators”. Decision No 1308. NAA. Series A4940. File C4257. *Constitutional Amendments 1965 – Referendum*. Prime Minister’s Department.

²⁹ The author of the political chronicle section of the *Australian Journal of Politics and History*, Vol 13 Issue 2, August 1967, suggested (page 253) that with six extra Senators added overall the DLP would win two. Williams and Hume state: “This, then, was the political calculus that underpinned the broad support for the Parliament proposal: the Liberal and Country Parties would retain seats; Labor would gain seats; and all major parties would guard against an insurgent DLP”. *People Power*, op. cit. page 147.

³⁰ *P.D.* House of Representatives, 11 November 1965, pages 2635-2638.

³¹ *P.D.* House of Representatives, 23 November 1965, pages 3059-3067.

³² *Sydney Morning Herald*, 26 October 1965. See also *News-Weekly*, 10 November 1965, page 3.

³³ See page 4 of a 41-page report on the referendum campaign written by the author which was intended for publication. The report was never published but a copy has been included in the Strangman referendum papers to be deposited with the National Library (see earlier comment about these papers).

³⁴ *P.D.* Senate, 30 November 1965, pages 1882-1885.

³⁵ P.D. Senate, 1 December 1965, pages 1936-1974 and 2 December 1965, pages 1986-2025. All these Senators are now dead. The year of their deaths were: Gair (1980); Bull (1976); Lilloco (1994); McManus (1983); Mattner (1977); Prowse (1977); Wood (1992); and Wright (1990).

³⁶ This is sometimes referred to as the "triple majority". Statement by Senator V.C. Gair, 2 December 1965. *Strangman papers*, op. cit.

³⁷ "Fifty years after the referendum, school attendance could be the most important gap to close". Gerard Henderson. *Weekend Australian*. 18-19 May 2017.

³⁸ *Joint Press Statement by Senators VC Gair and RC Wright, Canberra 9 December 1965.*

Strangman papers op.cit.

³⁹ P.D. Senate. 10 December 1965. Pages 2289-2290. This action had followed from Submission No 1143 of 1965 dated 19 November 1965 from Mr Anthony (see pps. 246-248 of NAA. Series A4940 File C4257, Prime Minister's Department. "*Constitutional Amendments 1965 Referendum*"), which referenced the ballot paper for the Wool Reserve Prices Plan Referendum.

⁴⁰ *41-page report*, op cit. pages 6-7.

⁴¹ Letter and attachment from JR Odgers to VC Gair, 24 December 1965. *Strangman papers* op.cit.

⁴² Undated (c.1965) note from Jack Kane to Senator Gair, *Strangman papers*.

⁴³ See Minute to the Prime Minister from PH Bailey, dated 20 December 1965, NAA. Series A463. File 66/312. Folios 81 ff. *Constitution Referendum 1966 – Submission of arguments for amendment*. Prime Minister's Department. The file contains a Minute at folio 32 dated 21 December from Mr FL Ley (CEO) to his Minister stating that Mr Bailey "is handling the "YES" case".

⁴⁴ See Minute to the Prime Minister from Mr PJ Lawler, Acting Secretary, Prime Minister's Department, dated 23 December 1965, at folio 48 ff, "*Constitution Referendum 1966...*" op.cit. The No case was in a narrative style for the first, aborted, attempt in 1965-66 but was changed to a question and answer style for the 1967 attempt. Although the official pamphlets were supposed to be pulped after the 1966 deferment Senator Gair obtained a copy. The CEO had provided the author with several sample copies of previous official pamphlets for the 1913, 1937, 1946 and 1948 referendums, and had presumably provided the same set to the authors of the Yes case. The successful No argument for the 1946 Organized Marketing of Primary Products proposal had been presented in a question and answer style and was among these sample pamphlets.

⁴⁵ See, for example, Folio 48 of File 66/312 op.cit. in which Mr Lawler seeks an answer from the Prime Minister about the suggestions about the draft made by Senator McKenna.

⁴⁶ See copies of the official pamphlets for the 1966 and 1967 attempts in *Strangman papers* op. cit.

⁴⁷ Official pamphlet for 1966 attempt. *Strangman papers*. Op.cit.

⁴⁸ Journalist Alan Reid wrote: "Yet while it has emerged with only minor bruises from the parliamentary session just ended it was not a good session for the Government". "The Phoney Crisis", Alan Reid, *The Bulletin*, December 18 1965, pages 10-11. See also "The Real Opposition moves to the Senate", *News-Weekly*, 1 September 1965, page 2, for a summary of the IPEC issue. Sam Everingham, Gordon Barton's (IPEC owner) biographer, wrote that following the defeat of the Government in the Senate on 25 August over the IPEC issue Sir Robert Menzies would never forgive Barton. "*Gordon Barton: Australia's maverick entrepreneur*". Sam Everingham. Allen & Unwin. 2009. Page 94.

⁴⁹ Australian Gallup Polls, *Australian Public Opinion Polls 1872-1883*, Published Dec 1965 & Jan 1966. The May 1965 result was reported in the *Melbourne Herald* on 8 July 1965, page 11. The December 1965 result appeared in the *Brisbane Courier-Mail* on 15 January 1966 at page 3. One would have to admit that the form of the Gallup question in December 1965 was slightly "leading". People were reminded "That in May we will be having a referendum on increasing the House of Representatives by 19 members – from 124 to 143 – without increasing the Senate". That was the range of increase alleged by the proposal's opponents but the Government had not officially enumerated a specific future increase, although an increase of 21 was mentioned in an early draft of the official Yes case. See page 4 of the Acting Parliamentary Draftsman's draft contained in "*Constitution Referendum 1966...*" op.cit.

⁵⁰ File E1966/36 Part 2. Op.cit. Folios 7-8. Memorandum from FL Ley to Secretary, Department of the Interior.

⁵¹ NAA. Series A406. File E1966/36 Part 2, folio 5. *1966 Referendum – Constitution Alteration*. Electoral Office.

⁵² File E1966/36 Part 2. op cit. folio 8.

⁵³ File E1966/36 Part 2. op.cit. folio 15.

- ⁵⁴ Media Statement, “*Referendum*”. Prime Minister, 15 February 1966. PM No 14/1966. The “deferment” was contained in Cabinet Minute, Decision No 24 of 15 February 1966, a copy of which can be found at folios 35-36 of File E1966/36 Part 2 op.cit.
- ⁵⁵ File E1966/36 Part 2. Op. cit. folios 25-28. A copy of the statement obtained by the Government carries a stamp that it had been sighted by the CEO on 17 February 1966.
- ⁵⁶ See *Strangman papers*. op.cit.
- ⁵⁷ Folio 45. AAO File A406 E1966/36 Part 2. “1966 referendum – Constitutional Alteration”. Electoral Branch. Department of the Interior. Minute dated 7 March 1966 from the CEO to the Minister.
- ⁵⁸ File E1966/36 Part 2. op.cit folios 37,38,44,45. For cost of the pamphlets see letter from the Minister for the Interior dated 1 September 1966 in reply to question asked in Parliament by Senator Gair on 25 August 1966. *Strangman Papers* op.cit. P.D. Senate. 25 August 1966. Page 105
- ⁵⁹ Senator Gair expressed the DLP’s opposition to the nexus and support for the Aboriginal question in the party’s policy speech. See pages 24 and 25, DLP Policy Speech, Senator the Hon VC Gair, 7 November 1966. *Strangman Papers*. op.cit.
- ⁶⁰ Federal Election 1966. *Policy Speech*. Delivered by the Prime Minister (Hon Harold Holt) over TV and radio stations throughout Australia on Tuesday, November 8 1966.
- ⁶¹ Decision No 46, 1 February 1967. Referendum Proposals. See “*Constitutional Amendments 1965 Referendum*” op.cit
- ⁶² Submission No 75, 10 February 1967. Referendum Proposals. “*Constitutional Amendments 1965 Referendum*” op.cit
- ⁶³ *Sydney Morning Herald*, 13 February 1967.
- ⁶⁴ *Sydney Morning Herald*, 15 February 1967.
- ⁶⁵ P.D. House of Representatives. 21 February 1967. Page 24.
- ⁶⁶ P.D. House of Representatives. 21 February 1967. Page 29.
- ⁶⁷ Notes on Cabinet Submission No 75, (Initials PH Bailey as author), 20 February 1967. See “*Constitutional Amendments 1965 Referendum*” op.cit
- ⁶⁸ Decision No 80, 22 February 1967. Submissions No 73 and 103. “*Constitutional Amendments 1965 Referendum*” op.cit
- ⁶⁹ Decision No 89, 23 February 1967. Referendum Proposals. “*Constitutional Amendments 1965 Referendum*” op.cit In a curious item in the *Australian* (25 February 1967) it was stated: “The Opposition supports the referendum but Labor sources said yesterday that their leader, Mr Whitlam, would not want the party to be labelled as co-sponsor with the Government. So he is expected to ask the Government to consult him on the case after it has been prepared”.
- ⁷⁰ P.D. House of Representatives. 23 February 1967. Page 114.
- ⁷¹ P.D. House of Representatives, 1 March 1967, page 267 (Mr H Turner).
- ⁷² The debate can be found in P.D. House of Representatives, 1 March 1967, pages 260-262 and 264-278.
- ⁷³ P.D. Senate. 8 March 1967. Pages 361-362. According to the Annotated Standing Orders of the Australian Senate the procedure is now called a “Roll Call” and is numbered 110. See: http://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/aso Accessed on 22 March 2017.
- ⁷⁴ P.D. Senate. 7 March 1967. Pages 274-279. For a discussion of the emergence of the Senate Committee system see *Papers on Parliament No. 54*, December 2010 “The Senate Committee System: Historical Perspectives.” http://www.aph.gov.au/About_Parliament/Senate/Research_and_Education/pops/pop54/~link.aspx?id=E4CAD8F5655740F7977F60899D7477BA&z=z Accessed 22 March 2017.
- ⁷⁵ The debates in the Senate can be found in P.D. Senate, 7 March 1967, pages 274-314 and 8 March 1967, pages 322-372.
- ⁷⁶ In February 1967 Senator Hannaford had notified his LCL colleagues in South Australia that he would sit on the cross benches as an independent. This decision was related to his stance against the Vietnam war. See entry in the on-line *Biographical Dictionary of the Australian Senate* <http://biography.senate.gov.au/hannaford-douglas-clive/> Accessed 27 March 2017.
- ⁷⁷ Daily Advertiser (Wagga), 10 March 1967.
- ⁷⁸ Page 21, 41-page document. op.cit.
- ⁷⁹ There appears to be nothing significant in the difference between the two divisions. The vote on the third reading was taken at about 11.15 p.m. and some of the Yes supporters might have decided to leave early knowing that their vote was not crucial to the outcome.

⁸⁰ The *Referendum (Constitution Alteration) Act 1906* in its Schedule had required the ballot question to be: Do you approve of the proposed law for the alteration of the Constitution entitled [here – set out the title of the proposed law]? See: <https://www.legislation.gov.au/Details/C1906A00011>

⁸¹ The three titles are contained in the speeches by Senators Scott and Murphy. *P.D. Senate*. 8 March 1967. Page 352. The title of the Bill adopted in 1965 had been: “A Bill for an Act to alter the Constitution in relation to the Number of Members of each House of the Parliament”. The title of the Bill under debate was “A Bill for an Act to alter the Constitution so that the Number of Members of the House of Representatives may be increased without necessarily increasing the Number of Senators”. The new title proposed by Senator Scott was: “A Bill for an Act to alter the Constitution so as to Remove the Need to increase the Number of Senators whenever the Number of Members of the House of Representatives is increased.”

⁸² Senator Prowse was considered to be a part of the ten but did not play an active role. His support for the No side was placed on the record in an item in the *Weekend News (WA)* on 13 May 1967 headed “No-Man Prowse Starts Late”.

⁸³ Cabinet Minute 7 March 1967. Decision No 118. Page 31 (of digitised version) of “*Constitutional Amendments -1965 Referendum*” op.cit.

⁸⁴ Notes, meeting of No Senators 5 April 1967. *Strangman Papers*. op.cit.

⁸⁵ Letter from JR Odgers to Senator VC Gair, dated 30 March 1967. The wording from Mr Odgers which found its way onto page 10 of the official pamphlet was: “Remember that this proposal to remove the nexus is likely to be only the first step to remove other constitutional safeguards embedded in the Constitution for the protection of the States. The plot was hatched by the Constitutional Review Committee and the next step of the super-planners at Canberra is for joint sittings of the two Houses to resolve legislative disagreements ...”, to which the drafters of the No case added “without any double dissolution”. *Strangman Papers*. op. cit

⁸⁶ *Strangman Papers*. op. cit

⁸⁷ Letter to Mr N Hutchison, Controller of Programs, ABC, from Senators Gair and Wright, dated 20 April 1967. *Strangman Papers* op.cit.

⁸⁸ *Strangman Papers* op.cit.

⁸⁹ Transcripts of radio talks by RL Reid on 9 May 1967 and 16 May 1967 (incomplete). *Strangman Papers* op.cit. See also “Electoral plot seen in referendum”. RL Reid. Sunday Times (South Australia). 14 May 1967.

⁹⁰ J. B. Hopley, 'Stevenson, John Rowstone (1908–1971)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/stevenson-john-rowstone-11765/text21043>, accessed online 1 April 2017

⁹¹ *Strangman Papers* op.cit.

⁹² “Why the Nexus Should Go”, *Western Sun*, Perth. No 84, Vol 8. Page 2. This article was originally cited by Paul J. Duffy in Chapter 46 “The Democratic Labor Party: Profile and Prospects” in *Australian Politics a second reader*, Henry Mayer (ed). FW Cheshire. 1969. Page 404.

⁹³ The letter from the future Prime Minister John Howard appeared in the *Sydney Morning Herald* on 25 May 1967 and was basically an attack on a statement by Senator Gair about the workload of parliamentarians. In the week prior to the referendums advertisements on behalf of the Labor Council of NSW and the Australian Council of Trade Unions, the NSW Liberal Party, the NSW Nexus Vote No Committee, and Senator Ian Wood appeared but neither side was spending large funds on print advertising. The respective advertisements appeared in the *Sydney Daily Mirror* 24 May 1967; the *Daily Telegraph* 26 May 1967; the *Daily Telegraph* 26 May 1967; and the *Queensland Courier-Mail* 26 May 1967.

⁹⁴ *The Canberra Times*. 23 March 1967.

⁹⁵ “Looking at certain unhealthy factors in the Senate”. As I see It by Alan Reid. *Bulletin*, May 20, 1967, page 18. Although published with a date of 20 May, the issue was available earlier in the week.

⁹⁶ Bullock article. op. cit. Mr Bullock commenced his article with the words “The year 1967 was one of the most remarkable years in sixty-seven years of the Australian Senate’s history”.

⁹⁷ Australian 18 May 1967. *Sydney Morning Herald* 19 May 1967. Melbourne Sun 19 May 1967.

Senator Gair’s letter was dated 16 May 1967. In his reply dated 17 May Mr Holt conveyed an implied rejection of the request to appear at the Bar of the House and stated: “There are forms of the Senate available to you to state (your) views in that Chamber should you so decide when the proceedings of the Senate are being broadcast or otherwise”. See *Strangman Papers*. op.cit.

⁹⁸ *P.D. House of Representatives*, 18 May 1967, pages 2369-2384

- ⁹⁹ P.D. Senate. 19 May 1967. Page 1781. There was an item in the *Canberra Times* of 19 May 1967 captioned “Whitlam hits ‘interference’” which reported Mr Whitlam’s references to the “Odgers plan”.
- ¹⁰⁰ Response by Mr Tim Bryant, Director, research section, Department of the Senate, 1 February 2017: “Question No. 221 from Senator Gair to the Minister representing the Prime Minister about the involvement of the Prime Minister’s Department in the drafting of arguments for the Yes case appears never to have been answered. It remained on the Notice Paper and therefore unanswered until the final sitting day of that year, 8 November. The Senate did not meet again before the Parliament was prorogued on 9 February 1968 ... It does not appear that the question was lodged again in the new session, presumably having lost its currency with the referendum having already been held many months earlier.” AAO File 67/2446, Prime Minister’s Department “Parliamentary Question Re Preparation of Referendum Case”.
- ¹⁰¹ Folio 12, 2 October 1967, AAO File 67/2446 op.cit.
- ¹⁰² Folio 15, 18 October 1967, AAO File 67/2446 op.cit.
- ¹⁰³ Folio 10, 17 August 1967, AAO File 67/2446 op.cit.
- ¹⁰⁴ Folio 17, 16 October 1967, AAO File 67/2446 op.cit.
- ¹⁰⁵ Folio 26, 28 February 1968, AAO File 67/2446 op.cit.
- ¹⁰⁶ Folio 32, 19 April 1974, AAO File 67/2446 op.cit.
- ¹⁰⁷ Table from page 393. 44th *Parliamentary Handbook* op.cit
- ¹⁰⁸ Costs of elections and referendums – Australian Electoral Commission. Available on-line http://www.aec.gov.au/Elections/Australian_Electoral_History/Cost_of_Election_1901_Present.htm Accessed 3 April 2017.
- ¹⁰⁹ A406 “*Referendum 1967: Constitutional Alteration – Report on Conduct of Referendum*”. File E1967/30 Part P. Department of the Interior. Electoral Office.
- ¹¹⁰ Media Statement. “*Result of Referendums*”. Prime Minister. P.M. No 55/1967. Canberra 28 May 1967.
- ¹¹¹ Press Statement. Brisbane. 27 May 1967
- ¹¹² *Mercury* (Hobart). 29 May 1967
- ¹¹³ *Canberra Times*. 29 May 1967.
- ¹¹⁴ *Mercury* (Hobart). 29 May 1967
- ¹¹⁵ A406 “*Referendum, 1967 Constitution alteration – enquiries and complaints*”. Department of the Interior. Electoral Office. File E1967/30 Part N. Folios 67-69 (pages 30-32 in digitised version. Menzies advice). Folio 46 (Page 53 in digitised edition. Memorandum, Ley to AG’s Dept.). Folio 44 (page 58 in digitised version. NSW CEO to Commonwealth CEO). Folio 42. (page 61 in digitised version. Note to SA CEO Mr Summers). See also *Strangman Papers* op.cit
- ¹¹⁶ File E1967/30 op.cit.
- ¹¹⁷ “*Time for change: yes/no?: Inquiry into the machinery of referendums*”. House of Representatives, Standing Committee on Legal and Constitutional Affairs. December 2009. Page 28.
- ¹¹⁸ Eleven days before the referendum there was a report in the Hobart *Mercury* 16 May 1967 (see also *Brisbane Telegraph* 16 May 1967) that disciplinary moves against Senator Wright had been under consideration. Tom Frame later stated that W McMahon wrote to Mr Holt on 13 June advising him not to take action on both Senators Wright and Wood. “*The Life and Death of Harold Holt*”. Page 211 and endnote 21 (Page 344). Allen & Unwin 2005.
- ¹¹⁹ *The Democratic Labor Party an overview*. Cathy Madden. Politics and Public Administration Section. Parliamentary Library. Available at: http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2011-2012/DPLOverview#_Toc298762178 Accessed 4 April 2017.
- ¹²⁰ See page 799, Appendix 11. *Parliamentary Handbook*. op.cit.
- ¹²¹ See *Australian Politics and Elections Database*. The University of Western Australia. Available at <http://elections.uwa.edu.au/statedetail.lasso?statesection=Parliament> Accessed on 4 April 2017.
- ¹²² See Australian Constitutional Convention. Constitutional Amendment Sub-Committee Report and Structure of Government Sub-Committee. *Proceedings of the Australian Constitutional convention*, Brisbane, 29 July – 1 August 1985. V.II standing committee reports. *Final Report of the Constitutional Commission* 1988. Vol 1. AGPS. Canberra.