

Does a chamber need a majority to be effective?

Address to ASPG ACT Chapter

May 2015

David Elder

David Elder

Clerk, House of Representatives

I suppose that I am well placed, at least in theory, to answer the question for discussion this evening – ‘Does a chamber need a majority to be effective?’. After 70 years with a government majority in the House of Representatives, in the 43rd Parliament – from 2010 – 2013 – no single party or group of parties was able to form a majority. In the end, after agreements with a number of non-aligned Members of the House, the Gillard Labor Government was formed with a majority in the House for the purposes of confidence motions and the provision of supply. Importantly, those agreements also included a comprehensive agenda for parliamentary reform, government support for particular proposals of those Members and also that the Members would not necessarily vote with the government or any other matters except confidence and supply. Of course, with the current 44th Parliament, we have seen a return to a solid government majority in the House. This is the usual situation for the House and is a product of the strong party structures and the way the electoral system works and had delivered 70 years of majority government prior to 2010.

And so there is almost a perfect experiment to make judgement about which was the most effective. The only problem is, what do we mean by effective and how should it be measured. I am going to assess some of the measures of effectiveness, although I recognise that, potentially, there are many others and any that are selected are potentially subjective. From assessing minority and majority chambers by these measures I will draw a somewhat tentative conclusion.

The first measure I will focus on is the effectiveness of government. This is very relevant to a lower House in a Westminster system where one of the important functions of that House is to ensure the formation of executive government.

The view about the effectiveness of government during the period of minority government (2010-2013) is mixed. Some of the recent books of commentary on those years are scathing in their assessments. This is well illustrated in the book on the Rudd/Gillard Governments by Paul Kelly. He titles one of his chapters ‘The tragedy of minority government’ leaving little doubt about his overall perspective. He refers to minority government demanding ‘endless fixes and deals’ and being ‘linked in the public’s mind with some of the worst sleaze in political life’¹.

¹ Paul Kelly 2014, *Triumph and Demise: The Broken Promise of a Labor Generation*, Melbourne University Press, Melbourne, pp 348-349

Perhaps to conclude on the effectiveness of government during the years of minority government, I do not think the leaders of the major parties, or perhaps even the majority of the public, wished to see another minority government to follow. The compromises needed to be made within the heart of government by not having a majority in the House can take its toll on the effectiveness of government.

On the other hand there is a different perspective, acknowledged by Paul Kelly and other commentators and held by many of those who were close to the Gillard Government. This focused on the legislative achievements of the Government during the years of minority government.

If we look at the measure of the passage of legislation, perhaps the most important task which Parliament as a whole performs, a different picture emerges. It is very interesting to look at the passage of legislation over a number of recent Parliaments, and examine the success rate of the passage of legislation. By this measure, the Gillard minority government has been one of the most successful in recent Parliaments with a success rate of 96%². Its performance is equalled only by the last Howard Government from 2004 – 2007 which enjoyed a majority both in the House of Representatives and in the Senate and had a success rate of 99%. Of course the performance against this measure is dependent on the passage of legislation not only through the House but also through the Senate. So effectiveness against this measure relies on the ability of a government to negotiate its legislation not only through the lower House (where it generally has a majority) but also through another House in which generally it does not enjoy a majority. It is difficult to draw conclusions from the single minority government we have had as the success is dependent on the respective numbers in each House. However, it does show that to have a minority in the House of Representatives is not by any means a necessary impediment to legislative success.

What about the performance of the House more broadly? The advent of minority government, as it has been in other jurisdictions, was a stimulus for reform in House and broader parliamentary procedures. There were reforms to Question Time, private members' business and House committees amongst other reforms. It would be fair to say that these reforms generally were positive and had a significant impact on House activity through the course of the minority government and have had some continuing legacy.

The introduction of time limits on questions and answers, the rule of direct relevance and the use of supplementary questions significantly improved the conduct of Question Time. Many of these reforms have remained despite the reversion to majority government.

The opportunities for private members significantly expanded during the 43rd Parliament. There was more time for debate on private members' bills and motions, and the opportunity for the House to vote on these matters. Six private members' bills passed both Houses and received assent – an unprecedented number in the history of the Parliament. Again, at least some aspects of these changes have continued into majority government, although private members' matters are not now coming to a vote.

There also were significant changes to committee processes. Perhaps the most significant was having a mechanism for House committees to be able to review legislation prior to its

² The 'success' rate is a percentage of the number of bills passed by both Houses as a percentage of the total number of bills introduced as at the end of the Parliament.

consideration in the House. There was a very significant increase overall in committee activity during the 43rd Parliament when compared with the previous Parliament, and in particular the number of advisory reports on legislation increased dramatically. This was very much a new and welcome role for the House. With the return to majority government, these processes have not continued and no government bills have been referred to Committees.

So what can we conclude in relation to the question for discussion. For a lower House in a bicameral system, I think we can safely answer from the 'experiment' with minority government that the lack of a government majority in the House does not necessarily make a government ineffective. There are enough indicators to suggest that a minority government in the House can have its successes, including legislative success, as well as achieving parliamentary reform. But I have a feeling that our system at the Commonwealth level has settled into a pattern of a government with a majority in the House and a minority in the Senate. Perhaps this allows each of the two Houses to work in their best way and perform the roles that they are most comfortable with – the House of Representatives as the House of government but with the very vigorous contest of ideas and personalities to form future governments and the Senate performing the role of review and scrutiny of the Government's agenda. This perhaps gives our parliamentary system an appropriate sense of checks and balances. But perhaps the system also benefits, every now and then, from the equilibrium being upset and the House having a government minority or the Senate having a government majority, just to give us some comparative perspective, to shake us out of our comfort zones, to achieve reform and change and to make life interesting for Clerks.