

The Defeated 1967 Nexus Referendum*

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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. In 1965, a couple of years later, I was invited to join the staff of Senator Vince Gair, who had become parliamentary Leader of the Australian Democratic Labor Party (DLP) in Canberra. 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 Australian 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 proposal to amend the Constitution ‘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)’. Together with the census aspect, this change had a symbolic

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¹ Dr Peter Westerway, who died in 2015, was Secretary of the NSW ALP from 1969 to 1973. A former chair of the Australian Broadcasting Tribunal and member of the Industries Assistance Commission, he also worked for many years as a senior Commonwealth public servant.

² Standing Committee on Legal and Constitutional Affairs, *Constitutional Change: Select sources on constitutional change in Australia 1901–1997*, House of Representatives, Canberra, 24 March 1997, p. 15, www.aph.gov.au/Parliamentary_Business/Committees/House_of_representatives_Committees?url=laca/inquiryinconch.htm.

significance, as well as reinforcing the power of the Commonwealth to make laws for Aboriginal people.³

This proposal was endorsed by what is still the largest ‘yes’ vote in Australian referendum history (90.77 per cent) 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 per cent) in referendum history.⁴

Although the nexus and census proposals had both been recommended in the 1959 report of the Joint Standing Committee on Constitutional Review (1956–59),⁵ my belief in 1965–67 was that the government was more concerned about the nexus question. It hoped the underlying sympathy in the community for Aboriginal people and support for the referendum question relating to Aboriginal people would ‘flow over’ into a decisive ‘yes’ vote for the nexus proposal.

Indeed, according to the website *Collaborating for Indigenous Rights*:

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

Similarly, Scott Bennett and Sean Brennan, writing in 1999, said, ‘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

³ Ibid., p. 59. This is one of the more concise summaries of the contents of the proposed amendment. The *Parliamentary Handbook* says, ‘[it] also sought to give the Commonwealth Parliament power to make laws with respect to Aboriginal people wherever they lived in Australia’ (44th *Parliamentary Handbook of the Commonwealth of Australia*, Department of Parliamentary Services, Canberra, 2014, p. 394). Henry Reynolds has suggested, ‘the referendum must be seen as an event of central importance. A symbolic event enshrined in history’, (Henry Reynolds, ‘Aborigines and the 1967 referendum: thirty years on’, *Papers on Parliament*, no. 31, June 1998, Department of Senate, p. 55, www.aph.gov.au/pops).

⁴ 44th *Parliamentary Handbook of the Commonwealth of Australia*, Department of Parliamentary Services, Canberra, 2014, p. 394.

⁵ Joint Committee on Constitutional Review, *Second Report*, House of Representatives, Canberra, 1959, p. 6 and pp. 54–6, www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_committees?url=report_register/bycomlist.asp?id=140.

⁶ *Collaborating for Indigenous Rights 1957–1973*, www.indigenoustrights.net.au. The website is hosted by the National Museum of Australia. It was created about 10 years ago through an Australian Research Council grant by Dr Sue Taffe, who is currently a researcher at Monash University.

⁷ Scott Bennett and Sean Brennan, ‘Constitutional referenda in Australia’, Research Paper no. 2 1999–2000, Parliamentary Library, p. 21.

it failed.⁸ But when you look at the Bennett/Brennan citation (which is to Colin Howard and Cheryl 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 the 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 retained from the 1965–67 period. I have placed these latter files with the National Library of Australia, and together with the files held by National Archives of Australia (some of which still require identification and clearance, including the relevant cabinet notebooks), these working files 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, Billy 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

⁸ There is some retrospective evidence in post-referendum correspondence from some government backbenchers to the Prime Minister, Harold Holt, that a small group of MPs might have been motivated by a significant concentration of Aboriginal voters in several electorates. The MPs included Bill Wentworth and Bob Katter (Snr). See NAA: A1209, 1967/7512, folios 13, 27, 39, 39 (a) and 132.

⁹ C. Howard and C.A. Saunders, ‘Constitutional amendment and constitutional reform in Australia’, in R.L. Mathews (ed.), *Public Policies in Two Federal Countries: Canada and Australia*, Centre for Research on Federal Financial Relations, Australian National University, Canberra, 1982, pp. 72–3.

¹⁰ The author wrote about the nexus referendum in ‘Two defeated referendum proposals, 1967 and 1977’ in Richard Lucy (ed.), *The Pieces of Politics*, Macmillan, South Melbourne, 1979, pp. 338–348. The then Deputy Clerk of the Senate wrote about the nexus referendum soon after its defeat. See R.E. Bullock, ‘The Australian Senate and the 1967 referendum (“breaking of the nexus”) proposal’ in *The Table*. vol. XXXVI, 1967.

The Aboriginal result has been widely written about and commemorated, including on 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, Bain Attwood, *The 1967 Referendum, or When Aborigines Didn’t Get the Vote*, Aboriginal Studies Press, Canberra, 1997. See also John Gardiner-Garden, ‘The origin of Commonwealth involvement in Indigenous Affairs and the 1967 referendum’, Background Paper 11, 1996–97, Parliamentary Library. Gardiner-Garden wrote that, ‘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’.

¹¹ At the time I was researching this article, the National Archives of Australia put new requests for access on hold until July 2017 while they transferred 15 million files between repositories in Canberra.

¹² *Collaborating for Indigenous Rights 1957–1973*, op. cit.

coalition. These tensions stemmed 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. This followed the DLP's success at the half-Senate election held on 5 December 1964, when Senator Gair was elected to represent Queensland and Victorian senator Frank McManus was re-elected. When the two senators took their seats on 1 July 1965, the Senate was composed of 30 Liberal–Country Party Coalition senators, 27 Australian Labor Party senators, two DLP senators and one independent.

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 1965,¹⁵ a petition campaign

¹³ 44th *Parliamentary Handbook*, op cit., p. 799. An article in the magazine *Nation* on 25 February 1967 titled 'Referendum revived' claimed NSW Liberal headquarters believed 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'. The subsequent redistribution conducted in 1968 was the first since 1955. Malcolm Mackerras wrote that, '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' (Malcolm Mackerras, *The 1968 Federal Redistribution*, ANU Press, Canberra, 1969, p. 1). In April 1965, when the nexus proposal was under active consideration, there were still tensions between the Liberal Party and Country Party about a redistribution. The Liberals wanted to govern in their own right and the Country Party wanted to ensure they continued as an influential 'tail' (Alan Reid, 'Reversing the roles', *The Bulletin*, 10 April 1965, pp. 14–15). Reid repeated this theory about the Liberals in an article later that year. ('The coming clash', *The Bulletin*, 25 December 1965, pp. 14–15). Writing in 2010, George Williams and David Hume drew attention to the 'vast demographic changes' that had occurred by 1967 where some electorates had almost 125,000 voters, while others had less than 40,000. They wrote that, '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 (George Williams and David Hume, *People Power: The History and Future of the Referendum in Australia*, UNSW Press, Sydney, 2010, p. 146).

¹⁴ Henry Mayer, Introduction in Malcolm Mackerras, *The Australian Senate, 1965–1967: Who Held Control?*, Australasian Political Studies Association, Sydney, 1968, p. 1.

¹⁵ In her book about the freedom ride, Professor Ann Curthoys mentions that Peter Manning and the author distributed an open letter to SAFA supporters in 1965 warning of communist involvement in

during 1962–63 directed at federal parliament by the Federal Council for Aboriginal Advancement (FCAA),¹⁶ and agitation by the member for Mackellar Bill Wentworth (Liberal), the member for Wills Gordon Bryant (ALP) and other members of parliament.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. The Leader of Opposition in the Senate, Senator Nick McKenna, unsuccessfully asked a question of the Leader of the Government, Senator William Spooner, 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, the Leader of the Opposition, Arthur Calwell, 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

Aboriginal politics. This is correct. Curthoys 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 (Ann Curthoys, *Freedom Ride: A Freedom Rider Remembers*, Allen and Unwin, Crows Nest, NSW, 2002, p. 222). Perkins' biographer, Peter Read, said, 'Perkins and Spigelman took care there did not appear to be too many members of the Communist Eureka Youth League [on the tour]'. Read also noted that Perkins rejected the offer of a public address system from a Waterside Workers Federation of Australia (WWF) representative (Peter Read, *Charles Perkins—A Biography*, Viking, Ringwood, Vic, 1990, p. 101 and p. 109). Spigelman wrote later that the WWF representative had been accompanied by a reporter from the communist newspaper *The Tribune* ('Bus tour reactions', Jim Spigelman, *Dissent*, Winter 1965, no. 14, p. 47). Perkins' approach may have reduced scepticism in the community about the ride. 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 just over 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 In May 1964, Arthur Calwell introduced a private member's bill, the Constitution Alteration (Aborigines) Bill 1964, which proposed the repeal of section 127 of the Constitution and that the words 'other than the aboriginal race in any State' be removed from section 51(xxvi). Bryant was involved in the national petition campaign. In March 1966, Wentworth introduced a private member's bill proposing the whole of section 51(xxvi) be deleted and a new anti-discrimination section 117a be incorporated (see the website *Collaborating for Indigenous Rights 1957–1973*, op. cit.).

¹⁸ Senate debates, 9 March 1960, p. 23.

¹⁹ House of Representatives debates, 13 April 1961, pp. 806–23. Interestingly, 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, *Second Report*, op. cit., p. 178). Calwell reminded the House that the committee had also recommended the Senate remain at 60 senators. The full report of the joint committee was 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 Senate debates, 26 November 1959, pp. 1899–1900.

several contributions, including one from the Attorney-General, Sir Garfield Barwick, who threw a proverbial bucket of cold water on the resolution, citing the absence of a draft of the proposed amendments, whether they would be understood by the voters, the expense of a referendum, and the likelihood of success.

Calwell again raised the committee's recommendations in a matter of public urgency on 12 April 1962.²⁰ He mentioned the nexus again on 4 December 1962 in a motion relating to the redistribution report for NSW, which may have resulted in the loss of a seat for that state.²¹ In August 1964, an ad hoc sub-committee of cabinet discussed ways of achieving an increase of about 12 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), Calwell asked the Prime Minister, Sir Robert Menzies, 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 opposition amendment to the Representation Bill 1964, the Minister for the Interior, Doug Anthony, made a very revealing statement which was an early indication of hesitancy within the Country Party about the proposal. He said, 'Speaking for myself I doubt whether any such referendum proposal [about the nexus] would ever be passed'.²⁴

On 1 April 1965, Calwell introduced another motion, this time concentrating on four of the joint committee's 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

The Governor-General made a passing reference to the report in his 1960 speech to open the second session of the 23rd Parliament, stating that the government was considering the 'lengthy and carefully prepared' report (Senate debates, 8 March 1960, pp. 7–10).

²⁰ House of Representatives debates, 12 April 1962, p. 1633. 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'. The Attorney-General, Sir Garfield Barwick, stated that he could 'see no urgency' [in putting the proposals to referendum] (House of Representatives debates, 12 April 1962, p. 1637).

²¹ House of Representatives debates, 4 December 1962, p. 2866.

²² This is mentioned in a draft paper for cabinet dated February 1967 and prepared for Anthony by the chief electoral officer (NAA: A406, E1967/30).

²³ House of Representatives debates, 3 September 1964, pp. 937–8. Menzies had had extensive involvement with past referendums, which is outlined by Professor Anne Twomey in 'Menzies, the Constitution and the High Court' in J.R. Nethercote (ed.), *Menzies: The Shaping of Modern Australia*, Connor Court Publishing, Redland Bay, Qld, 2016.

²⁴ House of Representatives debates, 30 October 1964, p. 2587.

²⁵ *Ibid.*, 1 April 1965, p. 529.

was a danger of the Senate being in ‘perpetual deadlock’ because he believed the Senate would have to be increased by an even number (24). In response, Menzies indicated the government had two of the committee’s proposals under consideration—the division of the Commonwealth into electorates and the repeal of section 127.

Perhaps in an attempt to divert attention away from the nexus proposal, Menzies said it would require ‘a great deal of thought’, but he nevertheless agreed with Calwell’s reference to the dangers of an increase by 24.²⁶ The Deputy Leader of the Opposition, Gough Whitlam, seconded the motion. He immediately spoke about the nexus and referred to the joint committee’s report and, overlooking Tasmanian Liberal senator Reg Wright’s opposition to the proposal to break it, claimed the recommendation had been unanimous.²⁷ 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, Billy Snedden (Snedden replaced Sir Garfield Barwick as Attorney-General on 4 March 1964),²⁸ recommending the two referendum proposals (breaking of the nexus and abolition of section 127). The submission contained a highly ambitious ‘possible timetable’ predicated on a successful referendum outcome, with a redistribution to be conducted between October 1965 and May 1966, and an election for the House of Representatives on 17 December 1966.²⁹ Cabinet concluded its consideration of the submission on 7 April 1965 and agreed that the nexus be broken ‘so that the House may have a flexible future’. However, it rejected as impracticable the plan to hold a redistribution based on a successful referendum result before the next election. It proposed 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 should be no re-distribution based on the present numbers applying in the House of Representatives.³⁰

²⁶ Ibid., 1 April 1965, p. 534.

²⁷ Ibid., 1 April 1965, p. 538–9.

²⁸ Williams and Hume wrote, ‘Sir Garfield Barwick, Attorney-General in the Menzies 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 Menzies Cabinet in 1965’ (Williams and Hume, op. cit., p. 146).

²⁹ Cabinet submission no. 660, 22 February 1965, reproduced on *Collaborating for Indigenous Rights* website, op. cit.

³⁰ Cabinet decision no. 841, 7 April 1965, reproduced in *Collaborating for Indigenous Rights* website, op. cit. The Prime Minister repeated the information in a reply to a question from Calwell (House of Representatives debates, 28 April 1965, p. 923). At a meeting on 20 October, the cabinet decided that section 7 of the Constitution also be amended to ‘preserve to each of the Original States at least the present number of ten Senators’ (NAA: A4940, decision no. 1308).

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.³¹

The Constitution Alteration (Parliament) Bill 1965, which was to initiate the nexus referendum machinery, was introduced in the House by Menzies on 11 November 1965. 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.³²

Debate on the nexus bill resumed on 23 November when Calwell pledged the ALP would support the bill.³³ Calwell also adopted Menzies's argument 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'.³⁴

Meanwhile, the DLP had been developing its position on the nexus proposal. On 21 May 1965, the Victorian state executive of the DLP adopted a resolution in opposition to the nexus proposal and in support of 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.³⁵ At that stage, before the parliamentary debates, the DLP was the only publicly known centre of opposition to the nexus proposal.³⁶

³¹ The author of the political chronicle section of the *Australian Journal of Politics and History*, vol. 13, issue 2, August 1967, suggested that with six extra senators added overall, the DLP would win two (p. 253). Williams and Hume state that, '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'. (William and Hume, op. cit., p. 147).

³² House of Representatives debates, 11 November 1965, pp. 2635–8.

³³ Ibid., 23 November 1965, pp. 3059–67.

³⁴ Votes and Proceedings of the House of Representatives, 23 November 1965, p. 465.

³⁵ *Sydney Morning Herald*, 26 October 1965. See also *News Weekly*, 10 November 1965, p. 3.

³⁶ Strangman papers, unpublished report on the referendum campaign, p. 4. A copy of the report has been included in the Strangman referendum papers deposited with the National Library.

The nexus bill was introduced in the Senate on 30 November 1965 by the Deputy Leader of the Government, Senator Norman Henty, who repeated the arguments used by Menzies in the House of Representatives.³⁷ It was debated extensively on 1 and 2 December and adopted by 43 votes to eight. The eight dissidents were Gair and McManus, Queensland senator Ian Wood (LIB), NSW senator Tom Bull (CP), Tasmanian senators Reg Wright and Alexander Lillico (LIB), South Australian senator Ted Mattner (LIB) and Western Australian senator Edgar Prowse (CP). All eight senators voted for the Aboriginal referendum proposal.³⁸

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.³⁹

In the House, debate on the nexus bill occupied one hour and 28 minutes, compared to the Senate where 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, author and executive director of The Sydney Institute) suggested the lack of debate (in the community generally) over the second question reflected the goodwill towards Indigenous Australians half a century ago.⁴⁰

Senate Leader of the Opposition, Senator McKenna, led the debate for the nexus proposal and repeated the argument of Menzies and 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 was the first of the ‘no’ senators to speak. He emphasised that Australia did not need more senators or members of the House of Representatives and that an ideal size for the Senate was between 40 and 80 members. Wright affirmed the role of the Senate as both a states’ house and a house of review. He also emphasised the importance of the deadlock provisions of section 57 of the Constitution, including

³⁷ Senate debates, 30 November 1965, pp. 1882–5.

³⁸ *Ibid.*, 1 December 1965, pp. 1936–1974, and 2 December 1965, pp. 1986–2025. None of these senators are still alive.

³⁹ This is sometimes referred to as the ‘triple majority’. Vince Gair, media release, 2 December 1965, Strangman papers, op. cit.

⁴⁰ Gerard Henderson, ‘Indigenous school attendance could be the most important gap’, *The Australian*. 18 May 2017, www.theaustralian.com.au/opinion/columnists/Gerard-henderson/indigenous-school-attendance-could-be-the-most-important-gap/news-story/d19ef4baa29ca72ed2cd14fe6046259b.

the provision for a joint sitting of both houses, saying the position of the Senate would be weakened should the nexus be broken.

In his contribution, Senator Gair argued that the purpose of breaking the nexus was to increase the House by between 25 and 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 in a joint sitting of parliament, he claimed 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 members of the House.

The senators who had voted against the referendum bill met in Parliament House on 9 December and agreed they did not wish for an increase in members in either house at that time. They decided on a strategy—the argument that a 'yes' vote is the 'lesser of two evils' must be counteracted and senators Gair and Wright were to jointly prepare a draft of the official 'no' case and jointly convene any future meetings.⁴¹ The following day, the Senate adopted the Referendum (Constitution Alteration) Bill (No.2) 1965. It provided for the change in the referendum voting system from the use of numerals by the voters to their writing 'yes' or 'no' in the square beside the question.⁴²

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 these sessions a preliminary draft of the official 'no' case was agreed, which was accepted by the other senators with only minor amendments.⁴³ The Clerk of the Senate, J.R. Odgers, 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.⁴⁴ DLP Federal Secretary, Jack Kane, who was then a member of Senator Gair's staff and who played a part in the drafting, forwarded a 'journalist's version' to the author and Senator Gair. He warned 'don't let those lawyers get away with a mass of insufferably

⁴¹ Vince Gair and Reginald Wright, joint press statement, Canberra, 9 December 1965, Strangman papers *op. cit.*

⁴² Senate debates, 10 December 1965, pp. 2289–90. This action had followed from submission no. 1143, dated 19 November 1965, from Anthony (see pp. 246–8 of NAA: A4940, C4257, Constitutional Amendments 1965 Referendum), which referenced the ballot paper for the Wool Reserve Prices Plan referendum.

⁴³ Strangman, unpublished report on the referendum campaign, *op. cit.*, pp. 6–7.

⁴⁴ Letter and attachment from J.R. Odgers to Vince Gair, 24 December 1965, Strangman papers, *op. cit.*

legalistic arguments. They will be the only ones who will read them'.⁴⁵ The 'no' case was handed to the Chief Electoral Officer, Frank 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, C. McComas. Peter H. Bailey, the first Assistant Secretary in the Prime Minister's Department, noted that the drafts 'tend to be overly formal' and the department provided the Prime Minister with alternative texts.⁴⁶

Acting Secretary of the Prime Minister's Department, Peter Lawler, sent copies of these alternative drafts to Attorney-General Billy Snedden for clearance with Calwell and the Leader of the Country Party, John McEwen. Calwell requested the drafts also be sent to 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 preferred a narrative style rather than the proposed question and answer style. 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 Labor Senators'. Snedden was not supportive of the majority of Senator McKenna's suggestions. Calwell also wished that his name appear beside the Prime Minister's as authorising and preparing the 'yes' case.⁴⁷ Menzies was personally involved in a significant way with the content of the case.⁴⁸

⁴⁵ Undated (c. 1965) note from Jack Kane to Senator Gair, Strangman papers, op. cit.

⁴⁶ See minute to the Prime Minister from Peter Bailey, dated 20 December 1965 (NAA: A463, 1966/312, folio 81). The NAA file contains a minute (folio 32) dated 21 December from Ley to his minister stating that Bailey 'is handling the "YES" case'.

⁴⁷ See minute to the Prime Minister from Lawler, dated 23 December 1965, (NAA: A463, 1966/312, folio 48). The 'no' case was written 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.

⁴⁸ See, for example, NAA: A463, 1966/312, folio 48 in which Lawler seeks an answer from the Prime Minister about the suggestions made by Senator McKenna about the draft.

Interestingly, Calwell's name did appear but not that of McEwen, and instead the Prime Minister was cited as authorising the case on behalf of the government. In the official pamphlet for the 1967 attempt, McEwen's name was included, together with those of then Prime Minister, Harold Holt, and then Leader of the Opposition, Gough Whitlam.⁴⁹

The 'yes' case for the 1966 attempt was based around a request for a 'modest increase'⁵⁰ (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'. The conclusion stated that a 'no' vote 'would cause this vital and money-saving reform to be delayed for a great many years'.⁵¹

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.⁵²

On 20 January 1966, Menzies announced his resignation as prime minister and on 26 January was succeeded by Holt. Menzies made no reference to the referendum as a causative factor, either then or in subsequent public writings about his political career. However, 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.⁵³

⁴⁹ See copies of the official pamphlets for the 1966 and 1967 attempts in Strangman papers, op. cit.

⁵⁰ Official pamphlet for 1966 attempt, Strangman papers, op. cit.

⁵¹ Ibid.

⁵² Ibid.

⁵³ 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' (Alan Reid, 'The phoney crisis', *The Bulletin*, December 18 1965, pp. 10–11). See 'The real opposition moves to the Senate', *News Weekly*, 1 September 1965, p. 2, for a summary of the IPEC issue. Sam Everingham, (the biographer of IPEC owner, Gordon Barton) 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

In January 1966, an Australian Gallup Poll (taken in December) was released which showed a negative response to the nexus proposal among those polled. The figures were—Yes: 23 per cent, No: 47 per cent and Undecided: 30 per cent. The same question had been asked in May 1965 and the results then were—Yes: 33 per cent, No: 35 per cent and Undecided: 32 per cent.⁵⁴ 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 chief electoral officer 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.⁵⁵

Doug Anthony, who as Minister for the Interior was responsible for the Electoral Office, wrote to the new Prime Minister, Harold Holt, on 27 January 1966 alerting him to the chief electoral officer’s timetable. 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.⁵⁶

This was followed by a letter from the chief electoral officer to the secretary of the Department of Interior conveying his understanding that ‘a substantial number of members of cabinet, including Mr McEwen, is [sic] anxious to abandon or defer the holding of the Referendum’.⁵⁷

The Chief Electoral Officer, Frank Ley, sought legal advice about his responsibility to distribute the pamphlets in such a situation. On 9 February, John Ewens, acting Secretary of the Attorney-General’s Department, replied that if the Federal Executive

(Sam Everingham, *Gordon Barton: Australia’s Maverick Entrepreneur*, Allen & Unwin, Crows Nest NSW, 2009, p. 94).

⁵⁴ The results of the May 1965 Gallup poll were reported in the *Melbourne Herald* on 8 July 1965, p. 11. The results of the December 1965 Gallup poll appeared in *The Courier-Mail* on 15 January 1966, p. 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 opponents of the proposal 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 p. 4 of the draft prepared by the acting parliamentary draftsman contained in NAA: A463, 1966/312, Constitution Referendum 1966 – Submission of arguments for amendment).

⁵⁵ Memorandum from Ley to the secretary of the Department of the Interior, NAA: A406, E1966/36 Part 2, folio 7–8.

⁵⁶ NAA: A406, E1966/36 Part 2, folio 5.

⁵⁷ NAA: A406, E1966/36 Part 2, folio 8.

Council advises the Governor-General not to issue writs for the referendum, Ley '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.⁵⁸ At the time, however, the government did not intend offering 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, 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'.⁵⁹

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 after the deferment, he issued a four-page media statement declaring the postponement to be a 'victory' for the DLP.⁶⁰ Prompted by 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 from 1915.⁶¹

At least 50 letters and telegrams on this subject were sent by individuals and organisations to Ley, most of which 'give every indication that they are sponsored by some interested party who has the benefit of legal advice'.⁶² An official from his department reported that 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 Ley by Anthony and the pamphlets were pulped, having cost \$177,635 to produce and print.⁶³

⁵⁸ NAA: A406, E1966/36 Part 2, folio 15.

⁵⁹ Harold Holt (Prime Minister), *Referendum*, media release, 15 February 1966. The 'deferment' was referred to in cabinet minute, decision no. 24, (NAA: A406, E1966/36 Part 2, folios 35–36).

⁶⁰ NAA: A406, E1966/36 Part 2, folios 25–28. A copy of the statement obtained by the government carries a stamp that it had been sighted by the chief electoral officer on 17 February 1966.

⁶¹ See Strangman papers, *op. cit.*

⁶² Minute 7 March 1966 from the chief electoral officer to the minister, NAA: A406, E1966/36 Part 2, folio 45.

⁶³ NAA: A406, E1966/36 Part 2, folios 37, 38, 44, 45. For the 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.*; Senate debates, 25 August 1966, p. 105).

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 1966.⁶⁴ Curiously, neither the nexus proposal nor the Aboriginals proposal rated a mention in the Prime Minister's policy speech, even though there was a 'supplementary statement' on Aboriginals published jointly with the policy speech.⁶⁵

We now know through 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 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 Aboriginals proposals, looking at the possibility of incorporating other questions. These included:

- an increase in the minimum number of House of Representatives members from each state
- the expiry of senators' terms so that concurrent elections could be held
- the expiry of the terms for senators filling casual vacancies
- allowing electors from mainland territories to vote in referendums.⁶⁶

The 'paper' (also called a 'survey') was submitted to cabinet by the Prime Minister on 10 February 1967.⁶⁷ In regard to the nexus proposal, the authors acknowledged that it would be difficult to rebut Senator Gair's characterisation of the aim as being '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'.

⁶⁴ Senator Gair expressed the DLP's opposition to the nexus and support for the Aboriginal question in the party's policy speech (Vince Gair, *Federal Election 1966: DLP policy speech delivered on 7 November 1966*, Strangman papers, op. cit.).

⁶⁵ Liberal Party of Australia, *Federal Election, 1966: policy speech delivered by the Prime Minister (Mr. Harold Holt) over TV and radio stations throughout Australia on Tuesday, November 8 1966*, Liberal Party of Australia, Canberra, 1966.

⁶⁶ Cabinet decision no. 46, 1 February 1967, NAA: A4940, C4257.

⁶⁷ Submission no. 75, 10 February 1967, NAA: A4940, C4257.

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 over 11 and 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’.⁶⁸ At a joint meeting of the coalition parties two days later Prime Minister Holt announced that the necessary legislation would be introduced in the new session of parliament.⁶⁹

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’.⁷⁰ Whitlam attempted to prise some more detail from the Prime Minister but was unsuccessful.⁷¹

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 members of the House). Two days earlier, Peter 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.⁷²

By decision no. 80 of 22 February, cabinet agreed to proceed with the nexus and Aboriginals proposals but to increase the population quota for each electorate 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

⁶⁸ *The Sydney Morning Herald*, 13 February 1967.

⁶⁹ *Ibid.*, 15 February 1967.

⁷⁰ Senate debates, 21 February 1967, p. 12.

⁷¹ House of Representatives debates, 21 February 1967, pp. 28–9.

⁷² Notes on cabinet submission no. 75 (Initials P.H. Bailey as author), 20 February 1967, NAA: A4940, C4257.

House.⁷³ That alternative would be an increase of one extra senator for each state—a solution that neither Menzies nor 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’.⁷⁴

On the same day, the Prime Minister told the House that the postponed referendum proposals would proceed—with the divisor changed from 80,000 to 85,000 people thus generating an increase of about 13 in the size of the House—and that relevant legislation would be introduced in the ‘next week or two’.⁷⁵ 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 Aboriginals 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 that morning had discussed the nexus proposal for one and a half hours.⁷⁶

Arguments used by the Prime Minister in his second reading speech included:

- the range of matters dealt with by members of the House was wider than in the earlier years and the burden on members had increased considerably
- the Commonwealth was now dealing with matters that were formerly the province of the states
- there would 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

⁷³ Cabinet decision no. 80, 22 February 1967, cabinet submissions no. 73 and no.103, NAA: A4940, C4257.

⁷⁴ Cabinet decision no. 89, 23 February 1967, NAA: A4940, C4257. A curious item in *The Australian* (25 February 1967) 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’.

⁷⁵ House of Representatives debates, 23 February 1967, p. 114.

⁷⁶ *Ibid.*, 1 March 1967, p. 267.

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- state representation would be protected by guaranteeing to all states a minimum of ten senators.

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’ (a reference to the DLP) of 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 Joint Standing Committee on Constitutional Review (1956–59) 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’.⁷⁷

In his speech of support, Anthony repeated 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’. As well, 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’.⁷⁸ 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 Aboriginals bill, which followed immediately, occupied one hour and 15 minutes.⁷⁹

The two constitutional bills were introduced in the Senate on 2 March, with the Leader of the Government, Senator Henty, delivering a speech identical to Holt’s second reading speech in the lower house. The Aboriginals proposal was adopted after a debate of 38 minutes (compared to 75 minutes in the House of Representatives) but the nexus bill occupied 10 hours and 10 minutes of debating time, mostly over 7 and 8 March 1967, in contrast to the House debate of one hour and 55 minutes. Passage of the two bills was complicated by a ‘call of the Senate’ to ascertain whether all senators were present, required by then standing order 234. Under the standing order, senators were usually given three weeks’ notice that a roll call was to be held but this was reduced to one week.⁸⁰

⁷⁷ Ibid., 1 March 1967, pp. 264–6.

⁷⁸ Ibid., 1 March 1967, pp. 272–3

⁷⁹ Ibid., 1 March 1967, pp. 260–2 and 264–278.

⁸⁰ Senate debates, 8 March 1967, pp. 361–2. According to the *Annotated Standing Orders of the Australian Senate*, the procedure is now called a ‘roll call’ and is covered by standing order 110 (www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/aso).

In his supporting speech, Senate Leader of the Opposition, Senator Lionel Murphy, like Whitlam in the lower house, cited the endorsement of the joint committee's proposals by the 1961 ALP federal conference. He repeated the argument that the representative 'burdens' on members of the House required extra numbers. He also argued that more members of the House 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 the representational duties of members prevented them from engaging in committee work.⁸¹

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 over the past 47 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 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. 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 per cent of respondents were opposed.

Senator Gair sought to personify the nexus by referring to the strong support of Richard Edward O'Connor QC for the nexus during the Australasian Federal 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'.⁸² Coalition senators listening to his speech, 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.

⁸¹ Senate debates, 7 March 1967, pp. 274–9. Senate debates, 7 March 1967, pp. 274–9. For a discussion on the emergence of the Senate committee system see Rosemary Laing, 'The Senate committee system: historical perspectives', *Papers on Parliament*, no. 54, December 2010, www.aph.gov.au/pops.

⁸² *Ibid.*, 7 March 1967, pp 274–314, and 8 March 1967, pp. 285–292.

As anticipated, the other major opponent of the nexus bill was Senator Wright. 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.⁸³ Senators Lillico, Mattner, Wood and Reg Turnbull (an independent from Tasmania) also spoke against the bill.

Prowse, the Country and Democratic League (CDL) senator from Western Australia, 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’.⁸⁴ Along with Senator Hannaford, the senators who spoke against the bill voted against it.⁸⁵ Senator Bull, who was in hospital, reiterated his opposition in a statement released in Canberra,⁸⁶ and Senator McManus, who was also ill, advised of his continuing opposition.⁸⁷

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 45–7.⁸⁸ However, while the bill was in the committee stage, Western Australian senator Malcolm Scott (LIB), 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 bill,⁸⁹ but it must surely have had only minor potential for reinforcing the ‘yes’ vote.⁹⁰ Senator Murphy, on behalf of the opposition, opposed the amendment and it was defeated on the voices. On 7 March, the referendums were set

⁸³ Ibid., 7 March 1967, pp. 299–306.

⁸⁴ Ibid., 7 March 1967, p. 311

⁸⁵ In February 1967, Senator Hannaford notified his colleagues in the South Australian Liberal and Country League that he would sit on the cross-bench as an independent. This decision was related to his stance against the Vietnam War. See entry for Douglas Hannaford, *The Biographical Dictionary of the Australian Senate*, biography.senate.gov.au/hannaford-douglas-clive.

⁸⁶ *The Daily Advertiser* (Wagga, NSW), 10 March 1967.

⁸⁷ Strangman op. cit., unpublished report on the referendum campaign, p. 21.

⁸⁸ 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 pm. and some of the ‘yes’ supporters may have decided to leave early knowing that their vote was not crucial to the outcome.

⁸⁹ The *Referendum (Constitution Alteration) Act 1906* required the following wording be used for the ballot question: ‘Do you approve of the proposed law for the alteration of the Constitution entitled [*here set out the title of the proposed law*]?’ See www.legislation.gov.au/Details/C1906A00011.

⁹⁰ The three titles are contained in the speeches by senators Scott and Murphy (Senate debates, 8 March 1967, p. 352.) The title of the bill adopted in 1965 was ‘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’.

down for 27 May 1967, but there was to be no public announcement of the date until the bills were through both houses.⁹¹

There was now a group of 10 senators opposed to the nexus proposal with at least one senator from each state.⁹² 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. 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.⁹³ The 'no' case was substantially the same as that agreed on for the postponed 1966 attempt. However, Senator Gair had fortuitously obtained a copy of the 'pulped' 1966 official booklet, and the authors, noting the question and answer approach of the 'yes' case, adopted that style.

On 30 March, the Clerk of the Senate, J.R. Odgers, 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'. 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.⁹⁴

On 21 March, senators Gair and Wright wrote to the chairman of the Australian Broadcasting Commission (ABC), Dr James Darling, seeking equal time for the presentation of the 'no' case. They had discovered equal time had been granted to both sides in the 1951 referendum about communism.⁹⁵ In a confidential cablegram to Holt (who was on an official visit to Taipei) dated 5 April, the acting Prime Minister, John McEwen, 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. 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.

⁹¹ Cabinet minute, 7 March 1967, decision no. 118, NAA: A4940, C4257.

⁹² 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 titled 'No-man Prowse starts late'.

⁹³ Strangman op. cit., notes from 'no' senators meeting, 5 April 1967.

⁹⁴ Strangman papers, op. cit., letter from J.R. Odgers to Senator Vince Gair, dated 30 March 1967. The wording from 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'.

⁹⁵ Strangman papers, op. cit.

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 these arrangements. Senator Wright was to be the responsible person in Tasmania.⁹⁶ 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’.⁹⁷

Each of the DLP state secretaries was 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, R.L. Reid, a senior lecturer in politics at Adelaide University, was associated with the ‘no’ side and gave at least two supportive talks on ABC radio, presumably arranged by the DLP State Secretary, Mark Posa.⁹⁸

In NSW, a ‘vote no’ committee had been established with the NSW Clerk of Parliaments, Major-General John 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 1967.⁹⁹

‘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. Byrne played a prominent role in the referendum, touring North Queensland in the final week of the referendum campaign.¹⁰⁰

⁹⁶ Strangman papers, op. cit., letter to N. Hutchison, ABC controller of programs, from senators Gair and Wright, dated 20 April 1967.

⁹⁷ Strangman papers, op. cit.

⁹⁸ Strangman papers, op. cit., transcripts of radio talks by R.L. Reid on 9 May 1967 and 16 May 1967 (incomplete). See also R.L. Reid, ‘Electorates plot seen in referendum’, *Sunday Times*, 14 May 1967.

⁹⁹ J.B. Hopley, ‘Stevenson, John Rowstone (1908–1971)’, *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, adb.anu.edu.au/biography/stevenson-john-rowstone-11765/text21043.

¹⁰⁰ Strangman papers op. cit.

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 in Western Australia, L.F. 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.¹⁰¹

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 (and included a ‘vote yes’ letter from a ‘John Howard’ of Earlwood).¹⁰² 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 rely on the press, radio and television.¹⁰³

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

¹⁰¹ ‘Why the nexus should go’, *The Western Sun* (Perth), no. 84, vol. 8, p. 2. This article was originally cited by Paul J. Duffy, ‘The Democratic Labor Party: profile and prospects’, in Henry Mayer (ed.), *Australian Politics: A Second Reader*, F.W. Cheshire, Melbourne, 1969, p. 404.

¹⁰² The letter from future Prime Minister John Howard appeared in *The Sydney Morning Herald* on 25 May 1967 and was basically an attack on a statement made by Senator Gair about the workload of parliamentarians. In the week prior to the referendum, 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.

¹⁰³ *The Canberra Times*, 23 March 1967.

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...¹⁰⁴

Reid clearly had Senate Clerk J.R. 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.¹⁰⁵

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, on 24 December amended a set of figures within the draft of the official ‘no’ case for the first attempt. It is true that on 30 March 1967 he offered a line of argument for inclusion in the draft ‘no’ case for the second attempt but it was not acted upon.

On 18 May (a day the House was broadcast on ABC radio), 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 wrote to Holt requesting to appear at the bar of the House to present the ‘no’ case, but this was not acceded to.¹⁰⁶ In his contribution, 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.¹⁰⁷ We now know from the departmental files available that officials from the Department of Prime Minister had been discussing this same idea themselves. Whitlam also attacked Major-General Stevenson’s involvement in the ‘no’ campaign. The following day in the Senate, George Branson, a Liberal senator from Western Australia, asked the Leader of the Government, Senator Henty, 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’.¹⁰⁸

¹⁰⁴ Alan Reid, ‘Looking at certain unhealthy factors in the Senate’, *The Bulletin*, May 20, 1967, p. 18. Although published with a date of 20 May, the issue was available earlier in the week.

¹⁰⁵ Bullock, op. cit. 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’.

¹⁰⁶ Senator Gair’s letter was dated 16 May 1967. In his reply dated 17 May, Holt conveyed an implied rejection of the request to appear at the Bar of the House, stating, ‘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.).

¹⁰⁷ House of Representatives debates, 18 May 1967, pp. 2369–84.

¹⁰⁸ Senate debates, 19 May 1967, p. 1781. On 19 May 1967, *The Canberra Times* reported Whitlam’s reference to the ‘Odgers plan’ in an article entitled ‘Whitlam hits “interference”’.

On 19 May 1967, Senator Gair placed a question on the Senate Notice Paper asking if the authors of the official ‘yes’ case were assisted in preparing their case by full-time officers of the Commonwealth Public Service in the Prime Minister’s Department 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.¹⁰⁹

Four months after the referendum, Holt 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 [Holt, McEwen and Whitlam] and secretarial assistance was drawn upon’.¹¹⁰ This was disingenuous to say the least. First Assistant Secretary, Peter Bailey (who on the first attempt in December 1965 had conveyed ‘alternative’ versions of the ‘yes’ case to the secretary of his department) advised his superior, Geoffrey 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’.¹¹¹

The chairman of the Commonwealth Public Service Board, Sir Frederick Wheeler, was brought into the discussion following an inquiry from the Secretary of the Prime Minister’s Department, Sir John Bunting. Wheeler advised that the statutory framework (for example, 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’.¹¹² His opinion was not incorporated into the department’s draft responses.

On 16 October 1967, Sir John Bunting advised Holt that there had been assistance but ‘not in the sense of creating argument’.¹¹³ By February 1968, Bailey had advised the departmental secretary of proposed new wording—‘Assistance in its preparation was given as required by full-time officers of the Public Service in accordance with Ministerial instructions’.¹¹⁴

¹⁰⁹ NAA: A463, 1967/2446.

¹¹⁰ NAA: A463, 1967/2446, folio 12, 2 October 1967.

¹¹¹ NAA: A463, 1967/2446, folio 15, 18 October 1967.

¹¹² NAA: A463, 1967/2446, folio 10, 17 August 1967.

¹¹³ NAA: A463, 1967/2446, folio 17, 16 October 1967.

¹¹⁴ NAA: A463, 1967/2446, folio 26, 28 February 1968.

The issue of public service involvement in referendums had not been completely put to rest. 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 Bailey had been agreed at departmental level.¹¹⁵

Referendum day and the aftermath

The table below shows the result of the 'nexus' referendum.¹¹⁶

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 was \$1,041,000.¹¹⁷ 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
- a last-minute realisation by voters that referendums were being held.¹¹⁸

¹¹⁵ NAA: A463, 1967/2446, folio 32, 19 April 1974.

¹¹⁶ 44th *Parliamentary Handbook*, op. cit., p. 394.

¹¹⁷ Australian Electoral Commission, 'Costs of elections and referendums', www.aec.gov.au/Elections/Australian_Electoral_History/Cost_of_Election_1901_Present.htm.

¹¹⁸ NAA: A406, E1967/30, Part P, Department of Interior, Electoral Office.

The Prime Minister, Harold 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.¹¹⁹

Senator Gair saw the nexus result as ‘a great triumph’ for the ten ‘no’ senators, declaring, ‘the Australian voter proved that he does not wish to see an increase in the number of parliamentarians’.¹²⁰ Senator Wright said 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’.¹²¹

Whitlam said he was disappointed with the result and would now like to see a referendum on the abolition of the Senate.¹²² He said, ‘The abolition of the Senate would be a great contribution to Australia. The Labour Party would be in favour of this’.¹²³

Despite the generally low-key activity throughout Australia on referendum day, an episode in Adelaide had implications for electoral and referendum law. In Adelaide an ALP member of the House of Representatives, Clyde Cameron, picked up a bundle of DLP ‘vote no’ cards from a polling booth and forwarded them to the state Commonwealth Electoral Officer, Mr Summers, claiming they were illegal and misleading. Summers forwarded a sample to the deputy crown solicitor for his opinion. DLP State Secretary, Mark Posa, later reported to the author that the Commonwealth Police visited the printers seeking confirmation of the South Australian how-to-vote card.

The NSW Commonwealth electoral officer also forwarded five copies of how-to-vote cards authorised by senators Gair and Wright to Ley in Canberra, commenting:

¹¹⁹ Harold Holt, (Prime Minister), *Result of Referendum*, media statement, Canberra, 28 May 1967, P.M. No 55/1967.

¹²⁰ Vince Gair, press statement, Brisbane, 27 May 1967, Strangman papers, op. cit.

¹²¹ *The Mercury* (Hobart), 29 May 1967.

¹²² *The Canberra Times*, 29 May 1967.

¹²³ *The Mercury* (Hobart), 29 May 1967.

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?¹²⁴

On 2 June 1967, Ley sent a memorandum to the secretary of the Attorney-General’s Department seeking advice about the how-to-vote card and copied in the two state chief electoral officers. On 23 August, A.C.C. 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 (senators Gair and Wright). Furthermore, A.C.C. 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’.¹²⁵ This was copied to the chief electoral officers in South Australia and NSW and there the matter rested with no action being taken.

The partisan opinions expressed by the NSW chief electoral officer in this instance underline the inappropriateness of the Australian Electoral Commission (AEC)¹²⁶ acting as a ‘neutral body’ for drafting the official referendum cases, a role that was wisely rejected by a spokesperson for the AEC in 2009.¹²⁷

Interestingly, the campaign and result did not unduly handicap the career of Senator Wright.¹²⁸ As we now know, Prime Minister Holt disappeared on 17 December 1967 and John Gorton became prime minister on 10 January 1968. Gorton appointed

¹²⁴ NAA: A406, E1967/30, A406, Part N, folios 67–69 (A.C.C. Menzies’ advice, pp. 30–2 in digitised version), folio 46 (Ley’s memorandum to the Attorney-General’s Department, p. 53 in digitised version), folio 44 (NSW chief electoral officer to Commonwealth chief electoral officer, p. 58 in digitised version), folio 42 (note to SA Chief Electoral Officer Mr Summers, p. 61 in digitised version). See also Strangman papers, op. cit.

¹²⁵ NAA: A406, E1967/30.

¹²⁶ Between 1973 and 1984, the AEC was known as the Australian Electoral Office. Prior to this it was a branch of the Department of Home Affairs. The AEC was established as an independent statutory authority in 1984.

¹²⁷ House Standing Committee on Legal and Constitutional Affairs, *Time for Change: Yes/No*, report of the inquiry into the machinery of referendums, House of Representatives, December 2009, p. 28.

¹²⁸ Eleven days before the referendum, *The Mercury* (Hobart, 16 May 1967) reported that disciplinary moves against Senator Wright had been under consideration (see also *The Brisbane Telegraph*, 16 May 1967). Tom Frame later stated that Billy McMahon wrote to Holt on 13 June advising him not to take action on both senators Wright and Wood (Tom Frame, *The Life and Death of Harold Holt*, Allen & Unwin, Crows Nest, NSW, 2005, p. 211 and p. 344, endnote 21).

Senator Wright as Minister for Works and Minister in Charge of Tourist Activities from 28 February 1968.

Nor did the DLP suffer at the 1967 Senate election. Its vote increased from 8.4 per cent recorded in 1964 to 9.8 per cent and two extra senators were elected (Queensland senator Con Byrne and Victorian senator Jack Little).¹²⁹ Senator Turnbull was also returned as an independent in Tasmania.

The ‘strong persuasive force’ of the nexus result, as noted by 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 election of 1 December 1984, when the Senate was increased from 60 to 72 (two extra senators per state) and the House from 124 to 148 (a total increase in parliamentarians of 36).¹³⁰ ‘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 10 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 remains unchanged to this day.¹³¹

At the federal level, the ‘no’ campaign was a resounding historical success but the DLP senators were not there to see its lasting effects—all five of its existing Senate representatives 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. In 1983, Senator Michael Macklin (Australian Democrats) succeeded in getting the Senate to pass a similar bill. Also in 1983, the Attorney-General, Senator Gareth Evans, referred the subject for consideration to the Australian Constitutional Convention. In 1988, the Constitutional Commission recommended that the nexus be broken—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, Norman Parkes,

¹²⁹ Cathy Madden, ‘The Democratic Labor Party an overview’, Parliamentary Library, 18 July 2011, www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2011-2012/DPLOverview.

¹³⁰ *44th Parliamentary Handbook*, op. cit., p. 799, appendix 11.

¹³¹ University of Western Australia, *Australian Politics and Elections Database*, elections. uwa.edu.au/statedetail.lasso?statesection=Parliament.

Jack Pettifer and Doug Blake.¹³² No doubt they were as strong in their opposition to the nexus as the Senate Clerk J.R. Odgers was in his support of it.

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.



¹³² See reports of the Constitutional Amendment sub-committee report and the Structure of Government sub-committee, *Minutes of Proceedings and Official Record of Debates of the Australian Constitutional Convention*, Government Printer, Sydney, 1985 and standing committee reports, *Final Report of the Constitutional Commission*, vol. 1, Australian Government Publishing Service, Canberra, 1988.