



# 'Nine-tenths of the Senate iceberg'

Reflections on

**HARRY EVANS**

Clerk of the Senate  
1988–2009

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ISBN 978-1-76010-245-6

Department of the Senate  
Parliament House, Canberra

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# Foreword

When the time came to consider an appropriate way of remembering Harry Evans, Clerk of the Senate from 1988 to 2009, the idea of an annual lecture commended itself as being in keeping with Harry's interests and modest style. Ever one to foster discussion about parliamentary government, constitutionalism and good public administration, Harry Evans began the Senate Seminars on Parliamentary Law and Practice in the late 1980s, taking advantage of the facilities that the then new Parliament House offered for greater public engagement in venues such as the Main Committee Room and the Theatre.

The seminars turned into the Occasional Lecture series which has now been running for well over 25 years. They coincided with the establishment of a departmental journal, *Papers on Parliament*, to publish the lectures, as well as occasional papers on subjects related to Parliament and parliamentary government written by people working in and around Parliament. There was a dearth of vehicles for publishing such material and Harry's hope was that *Papers on Parliament* would meet a need and also be a sign that interest in Parliament was not—as he feared—waning year by year.

Introducing the first issue published in April 1988, he wrote of future issues:

It will be a mixed bag, and deliberately: no attempt will be made to impose themes or structures on the papers. The only connecting thread will be a belief that parliamentary matters are worthy of examination and discussion and, perhaps, that Parliament as an institution needs attention if it is to retain any relevance ... Opinions there will be, but not partisanship, and controversy will not be avoided, for such avoidance is of no help to any great institution.

Some thought Harry courted controversy, but it could be said that it was only ever in the spirit of turning a mirror on events to highlight threats to his beloved parliamentary institution and to identify ways in which it could be strengthened.

This volume of recollections has been compiled to commemorate the first of the annual Harry Evans Lectures. Contributions come from former senators whom Harry supported in their high offices, or worked with in developing innovative procedures, or in drawing the line between parliamentary rights and executive encroachment. Other contributions come from those who observed Harry in operation over many years, both from a distance and close up.

I thank them all for helping to celebrate the professional life and contribution of a fine servant of the Parliament.

*Senator the Hon Stephen Parry*  
*President of the Senate*





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▲ Harry Evans as Deputy Clerk (right) during the opening of the thirty-fifth Parliament in the Senate chamber of the provisional Parliament House on 14 September 1987

# Margaret Reid

*Senator for the Australian Capital Territory, 1981–2003 and  
President of the Senate, 1996–2002*

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Harry Evans has been accurately described as one of the most significant parliamentary officers of his generation—a true defender of the Senate and parliamentary democracy. He was recognised nationally and internationally as an outstanding champion of an independent and effective legislature. His whole working life was associated with the Parliament from his beginning in the provisional Parliament House with a two-year traineeship in the Parliamentary Library in 1967, moving then to become a researcher with the legendary Clerk of the Senate J.R. Odgers. In 1983 after a Senate department restructure Harry became one of four Senate Clerk Assistants, with Tom Wharton, Peter Murdoch and Guy Smith. Harry was Clerk Assistant Procedure then Clerk Assistant Committees.

Harry became Clerk of the Senate upon the retirement of Alan Cumming Thom. As the longest serving Clerk of the Australian Senate (serving from 18 February 1988 to 4 December 2009), he left an indelible imprint on the procedures and, more importantly, on the authority of the Australian Senate. He had an eye for detail and correctness and never did his attention waver from his commitment to the Senate and its role.

*‘His outspoken defence of  
the independence and the  
authority of the Senate  
under sections 53 and  
57 of the Constitution  
was renowned’*

Harry’s vast knowledge of the Senate and its procedures and precedents was legendary. His achievements as Clerk leave a considerable legacy beginning early in his career when he set up what is now the Procedure Office in the early 1980s. He established the Procedure Office in response to the emergence of minor parties in the Senate and their needs for procedural advice and legislative drafting support which added to the requirements of the opposition and government. As secretary of the Select Committee on Legislation Procedures, he provided the blueprint for the system of referral of bills to committees which commenced in 1990. He argued, successfully, for the abandoning of the old-fashioned wigs and gowns for the clerks.

Harry was a prolific writer, his greatest writing achievement being the production of six editions of *Odgers’ Australian Senate Practice*. He codified the principles of parliamentary privilege with the *Parliamentary Privileges Act 1987*, which endures as a testimony of his clarity of thought and precision of writing. He rewrote the standing orders of the Senate—to bring them up to date—as a gift for the Senate when it moved into the new Parliament House in 1988.



Harry had a deep devotion to his staff. He nurtured a culture of excellence and professional development and recognised achievement across the Department of the Senate. His leadership style engendered unswerving loyalty from his staff.

Harry is best remembered for his dedication to the Senate and to senators spanning 40 years of his life. His outspoken defence of the independence and the authority of the Senate under sections 53 and 57 of the Constitution was renowned as was his unrelenting focus on strengthening Australia's system of parliamentary democracy. His frequent comments on the distinction between the parliament and the executive and the role of the Senate in the bicameral Australian Parliament, and his fearless criticism of the lack of accountability on the part of the executive frequently made him unpopular with governments on both sides of politics. He remained undaunted in his advocacy of the independence of the legislature and executive accountability to the parliament.

Harry will be remembered as a strong defender of parliamentary process and as an ardent and outspoken defender of the constitutional authority and role of the Senate as a house of review. He dedicated his working life to the advancement of the institution of the Senate, to senators and to parliamentary democracy. Harry was never distracted by political considerations. While one expects senators to have regard for the institution and its role, they at the same time have what at times are competing considerations from their constituencies and their party. So at times a senator or a group of senators may see an issue differently from the Clerk, but no one ever doubted what it was that was the focus of the Clerk. Such integrity and commitment is greatly valued and respected, as was Harry.

His untimely death is regretted as he still had much to offer.



◀ Harry Evans (left) and Margaret Reid in the official party at the joint sitting of the Senate and the House of Representatives for the centenary of Federation in the Royal Exhibition Building, Melbourne, 9 May 2001

# Laurie Oakes

*Member of the Federal Parliamentary Press Gallery since 1969*

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When he retired as Clerk of the Senate, Harry Evans was asked how he hoped to be remembered. ‘Probably as a troublemaker’, he replied with a grin. That’s certainly the way Paul Keating saw him. John Howard, too, after becoming prime minister. Keating wanted the meddlesome Clerk sacked. The Howard Government toyed with the notion of a short-term contract system to get rid of him. Almost from the start of his 21 years in the job, whichever party was in office regarded Harry as trouble.

That is one reason he was a favourite with journalists. We like troublemakers. They are good copy. Parliamentary officials, almost by definition, are supposed to be dull or, at the very least, inconspicuous. Not Harry. I remember, with a frisson of pleasure, the 2005 Senate committee hearing on the coalition government’s taxpayer-funded advertising campaign to promote its controversial WorkChoices legislation.

*‘Parliamentary officials,  
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Harry had not only questioned the constitutionality of the measure but suggested that cross-subsidisation of government and party political advertising could lead to allegations of corruption, prompting an attempted put-down by a committee member, Liberal senator Mitch Fifield (Vic., 2004–). ‘If you don’t like the laws passed by the Parliament, you know, “stiff cheese” is a phrase that tends to come to mind’, said Fifield. ‘That is an extremely silly statement, if I can say so very respectfully’, Harry responded, in a tone that implied very little respect. ‘What do you keep an adviser for? You keep an adviser to give you frank advice. And if the adviser thinks you’ve done something wrong, you’ve made a mistake, you’ve enacted something which is unwise ... then you would expect an adviser to tell you very frankly’. It was game, set and match to the Clerk.

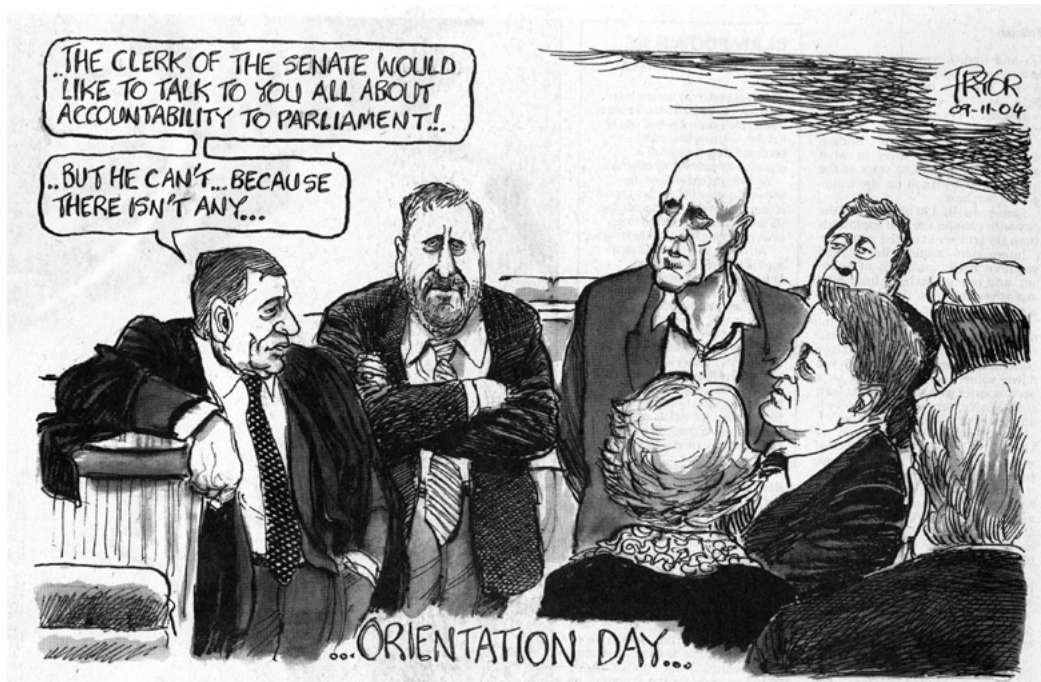
I arrived in the Parliamentary Press Gallery in 1969, the year Harry Evans moved from the Parliamentary Library to begin his career in the Department of the Senate as a researcher helping the then Clerk, the legendary Jim Odgers, prepare a new edition of his *Australian Senate Practice*. We had both attended Lithgow High School, Harry a couple of years behind me, and we overlapped again as students in Sydney University’s Arts Faculty. There was little indication then that Harry would become a troublemaker. He was a quiet kid at school. Quiet enough, anyway, that he attracted little notice from his seniors. And at university, while some of us were distracted by such frivolities

as student journalism, Harry must have given appropriate priority to academic pursuits, particularly the study of history, because he graduated with honours.

A trivia quiz at an Administrative Law conference dinner some years ago featured a question that aroused considerable amusement among the diners. It listed four names—Harry Evans, Shaun Micallef, James O’Loughlin and Steve Vizard—and asked guests to ‘pick the odd one out and tell us why’. The answer was: ‘Harry Evans. He’s the only one who isn’t a lawyer.’ Harry’s lack of legal qualifications was used as ammunition by his critics. But Odgers had not been a lawyer either. And Harry’s deep knowledge of Australian parliamentary history, the particular area of interest that led him to seek a job on the parliamentary staff when he left university, was at least as useful as a law degree in fulfilling his Senate role.

It gave him an understanding of how the Fathers of Federation had intended the parliament to operate, as a check on the executive and not simply a rubber stamp. Harry’s troublemaking was almost always in defence of that principle. As tight party discipline turned the House of Representatives into what he scornfully described as ‘a mere electioneering forum’, he fought to maintain as far as possible the Senate’s role in preventing Australia from becoming ‘a form of elective monarchy’. Harry used to say that party government is ‘the Australian disease’.

That’s another reason journalists appreciated him. He was eminently quotable.



▲ Geoff Pryor, 'Orientation day', *Canberra Times*, 9 November 2004.  
Reproduced courtesy of Geoff Pryor.

# Gareth Evans

*Senator for Victoria, 1978–96\**

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I probably didn't get off to the best possible start with Harry Evans and his colleagues by recalling in my maiden speech in 1978 'the frequency and vigour with which ... I have expressed my views as to [the Senate's] undemocratic character, its irresponsible conduct and its insupportable delusions of constitutional grandeur'—suggesting that perhaps the Clerks should give me a little handbell to go around ringing in front of me and saying, like a medieval leper, 'unclean, unclean'.

And being a government minister for thirteen of the eighteen years I was in the Senate, from 1983 to 1996—and for much of that time trying to manage government business in the face of the combined depredations of opposition Huns and Visigoths, cross-bench idealists and eccentrics, and a Clerk and his staff feeling cheerfully obliged to feed them procedural ammunition—was not calculated to make our relationship one for the ages.

*'always the soul of discretion,  
but with a nice sense of  
humour well-honed by the  
multiple human foibles  
on display around him.'*

But, for all that—and even given his propensity to fulminate about the perils of 'executive dictatorship' in a way which would have made his predecessor and mentor Jim Odgers burst with pride—I found it totally impossible to have anything other than an affectionate relationship with Harry Evans. It was not just a matter of him being impeccably professional, courteous and patient even in the most trying of circumstances. Loping around the place like a big amiable bear, he really was a very engaging character personally—always the soul of discretion, but with a nice sense of humour well-honed by the multiple human foibles on display around him.

One of the things that helped us get on is that—born perhaps out of my earlier experience working as a consultant to Lionel Murphy during the birth of the Senate committee system which he did so much to encourage—I was genuinely committed to making the Senate work, if not as a House of destruction, certainly one of effective *review*, engaged—as I said in my maiden speech—'in the careful and effective scrutiny, analysis, testing and review of the legislative and executive initiatives of the government of the day'.

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\* Gareth Evans was Senator for Victoria from 1978 to 1996, Deputy Leader of the Government in the Senate from 1987 to 1993 and Leader from 1993 to 1996. He was a cabinet minister in the portfolios of Attorney-General (1983–84), Resources and Energy (1984–87), Transport and Communications (1987–88) and Foreign Affairs and Trade (1988–96). He served in the House of Representatives from 1996 to 1999 as the Member for Holt and Deputy Leader of the Opposition.



Maintaining this view, in government as well as in opposition, was never a position calculated to win the hearts of Bob Hawke or Paul Keating, but it did mean that Harry and I could find much common ground. And we did, working effectively together over the years on a myriad of often arcane procedural issues—relating to money bills, parliamentary privilege, the processing of complex amendments (as in the nightmarishly protracted and complex Mabo debate), and generally designed to reduce mumbo-jumbo and let the Senate get on with what it did best. And I think we agreed that what the Senate did best—at its best—was intelligently discuss great policy issues on their merits, with much less of the low-grade vaudeville that passed for debate in the House of Representatives.

We even found it possible to agree<sup>1</sup> on a strategy to avoid repetition of the constitutional catastrophe of 1975, in a way that would in practice, without formally ceding the Senate's powers over appropriation bills, have created strong disincentives to them being again used so destructively: the Constitution Alteration (Fixed Term Parliaments) Bill which I introduced with the then opposition's support in 1981. Unhappily, as is the way in politics, once in government our position changed, and the opportunity to work a fundamental reform was lost, probably now irretrievably.

Harry Evans was a very fine man, and very fine public servant—and a fine exemplar of that truth which is all too often forgotten in public life these days, that you don't have to share someone's political or institutional beliefs to like, admire and work effectively with them in advancing the public interest.

▼ The Senate Standing Committee on Regulations and Ordinances in 1980. From left: Senators George Georges, Gareth Evans, Austin Lewis, Alan Missen, Jim Cavanagh, David Hamer and Harry Evans, who served as secretary from 1972 until 1980. The committee's role, described by chairman Austin Lewis in 1981 as 'the watch-dog over untrammelled, executive regulation-making power', made it an ideal training ground for Clerks of the Senate who served as secretaries including J.E. Edwards, J.R. Odgers, Roy Bullock and Alan Cumming Thom.



# Michael Macklin\*

*Senator for Queensland, 1981–90*

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I first met Harry Evans after the October 1980 election, when I was the last person elected to the Senate at the end of the longest count in Federation history. With my election, the Australian Democrats gained the balance of power for the first time and Harry was the Principal Parliamentary Officer (Procedure) delegated to look after our little team of five, as it was about to enter a turbulent decade of Senate operations.

At our first meeting Harry was his usual courteous self and moved rapidly to allay my fears about how I would be able to operate from Day One as the Australian Democrat Whip, not having set foot in the place previously. Harry had done his homework and assured me that my background as an academic philosopher would fit me well for the position—genuflections to the Platonic notion of rulers, no doubt. He pushed across his desk a copy of J.R. Odgers' *Australian Senate Practice* and the Senate standing orders and assured me that all I needed to know was contained in these two volumes and that I should study them as I had studied no other books before.

Luckily I had six months before taking up my seat on 1 July and I spent every spare moment reading and analysing how the Senate operated in practice. Harry's critical advice enabled our team to operate effectively with an extremely hostile coalition government and a Labor Opposition which wasn't keen to be seen supporting this maverick group led by Don Chipp, a former Liberal minister in the House of Representatives.

*'I came to think of him as nine-tenths of the Senate iceberg that one doesn't get to see, but without which the chamber could not really have functioned.'*

As Whip, I came to rely on Harry for advice and counsel on a whole range of matters during his time as PPO (Procedure), Clerk Assistant (Procedure) from 1983, Deputy Clerk from 1987 and Clerk of the Senate from 1988. I came to think of him as nine-tenths of the Senate iceberg that one doesn't get to see, but without which the chamber could not really have functioned.

In all our meetings, even after we became friends, Harry was meticulous in his adherence to protocol. He never once suggested a course of action unless I had sought his advice specifically on that matter. I remember asking him whether it were possible to do anything about listing the pieces of legislation actually in force, given the prevailing

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\* This article was first published as 'Remembering Harry' in the December 2014 issue of *Federal Gallery*, the journal of the Association of Former Members of the Parliament of Australia.



practice of leaving the final implementation of an Act passed by the Parliament entirely in the hands of the bureaucrats. Harry responded by opening his drawer and taking out a folder in which were copious notes on the matter, together with a strategy for executing the plan.

With the assistance of other senators, particularly Chris Puplick (NSW, 1978–81, 1984–90) and Michael Tate (Tas., 1978–93), a process called a ‘return to order’ was instigated, which uncovered the most extraordinary decisions being made, including one where the bureaucrats didn’t think the parliament had made the right decision and so quashed the Act! Harry had clearly thought about the issue long before I sought advice on it, but never raised it, even as a suggestion.

Throughout the 1980s, numerous far-reaching reforms were made to Senate practice to ensure greater scrutiny of legislation, more comprehensive committee coverage of major political and legislative issues, more efficient working of the chamber via its standing orders, and more information made available to individual senators—or at least those interested in taking up the new opportunities being made available by these reforms.

In all of these developments Harry was a crucial player, with his encyclopedic knowledge of both the history of the Senate and the interplay of the various standing orders and committees. He was always careful to be, and to be seen to be, impartial: simply a resource that could be tapped by those with the right questions and a willingness to learn. It is hoped that someone will seek

▲ Committee secretaries’ meeting in 1983. From left: Jill Chorazy, Terry Brown, Charlie Edwards, Harry Evans (Clerk Assistant, Committee Office), Paul Barsdell, Peter Keele, Anne Lynch, Peter Roberts.

▼ Wigs and gowns for Senate clerks at the table were abandoned in 1996



to document Harry's extensive and detailed contributions to these reforms, since the Federation stands in his debt for being in the right place at the right time, with the right approach and knowledge.

Prior to these reforms taking place, I approached Harry in his office in Old Parliament House to discuss our party's concern about sitting hours—obviously tougher for us, having to study and debate every piece of legislation with only a handful of senators and staff. At that stage, the Senate did not meet until question time in the afternoon, when everyone else in the country was looking to the end of the working day. So it was that one could be speaking for an hour—the time allotted for a second reading speech—in the wee hours of the morning. I remember doing just that, with the Deputy President asleep in the chair, as were the minister in charge of the bill and his opposition counterpart. The Press Gallery had gone home long ago. Obviously we were not being broadcast, so the only person listening to my erudite contribution was the Hansard reporter at the table.

The insanity of this situation led me to discuss it with Harry and to ask him if there was anything we could do from the cross-benches. He mused for a moment then said: 'You could just go home at the adjournment'. Harry was given to some wonderful quips, but he was being serious. Clearly if the 'balance of power' went home at 10.30 pm then all hell would break loose with the numbers in the chamber. After consulting with my colleagues, I told the Government and Opposition Whips that in future we would be leaving at 10.30 pm, as we did not believe in legislation by exhaustion. We were willing to start much earlier in the day, even 8.30 am. We were also willing to resubmit any vote taken in our absence if either side felt it desirable.

Both Whips saw at once the impossible situation that would arise if the numbers could be tipped dramatically at some point in the evening and reversed the next day. They accepted the inevitable and convinced their leaders that change was urgently needed, and it soon occurred. The House quickly followed the Senate's lead because of the problems arising if operating hours were out of kilter. Harry was thus instrumental in one of the major procedural changes in the Senate's history, though, as was often the case, his role went unnoticed.

It is apposite that one of Harry Evans' contributions to parliamentary democracy is that the Australian Parliament now conducts its business at sensible hours, in full view of wide-awake citizens. Given his Whig sensibilities, Harry would much appreciate it.



# Brilliant characters of the Senate

In a post-retirement address to the National Press Club in 2009, Harry Evans singled out a handful of the Senate's most 'brilliant characters'.



**Reg Withers**

(WA, 1966, 1968–87)

*Leader of the Opposition in the Senate during the events leading to the dismissal of Prime Minister Gough Whitlam by the Governor-General, Sir John Kerr, on 15 November 1975*



**Peter Rae**

(Tas., 1968–86)

*'best known as the Chairman of the Select Committee on Securities and Exchange, ... he was later the Chairman of one of the most successful of the standing committees, the Standing Committee on Finance and Government Operations'*



**John Wheeldon**

(WA, 1965–81)

*'the most brilliant orator the Senate has ever had'*



## Ivor Greenwood

(Vic., 1968–76)

*'a tragic character,  
a brilliant character'*



## James McClelland

(NSW, 1971–78)

*'had his faults but a very,  
very capable character  
and ... capable of  
independent action'*



## The 'mercurial' Lionel Murphy

(NSW, 1962–75)

*'an admirer of the American  
Congress, who wanted the  
Senate to follow its United  
States model in holding  
the executive government  
accountable, and who agitated  
for a committee system  
for that purpose'*



## Andrew Murray

(WA, 1996–2008)

*'the quintessential  
parliamentarian in the  
Senate over the time  
I have been there'*



▲ The last sitting day of the Senate in the provisional Parliament House with Harry Evans in the Clerk's chair. The Senate adjourned at 12.26 am on 3 June 1988.

▼ Harry Evans as Clerk of the Senate at the opening of the thirty-sixth Parliament in the Senate chamber of Parliament House on 8 May 1990



# Noel Crichton-Browne

*Senator for Western Australia, 1981–98 and  
Deputy President and Chairman of Committees, 1993–95*

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Harry Evans stands by any measure as one of the very finest parliamentary officers to have occupied the position of Clerk of any Australian Parliament.

Harry was a fearless defender of the Senate which on occasions brought discomfort to governments of all persuasions who found the powers of the Senate an inconvenience. Governments which attempted to erode or override the powers and place of the Senate in our parliamentary democracy had the formidable Harry Evans to confront.

I was party to one such occasion.

The ground over which this battle was fought was that of the secrecy provisions which were increasingly being inserted into legislation as a matter of course and whether departmental officers were able to use these provisions as shields against Senate committees of inquiry.

At the time of this battle in 1990 over three hundred Acts contained secrecy provisions. One such Act which ignited the struggle for territory was the then *National Crime Authority Act 1984*. This was soon followed by legal argument over whether officers of the Department of Sport and the Department of Community Services and Health were entitled to refuse to provide answers and information to Senate committees.

*‘Governments which attempted to erode or override the powers and place of the Senate in our parliamentary democracy had the formidable Harry Evans to confront.’*

Harry’s unambiguous advice was that legislative secrecy provisions do not apply to the conduct of inquiries by committees of the Senate, and do not impose any restriction on the disclosure of information or documents to committees.

He cited section 49 of the Constitution, article 9 of the Bill of Rights of 1689 and section 16 of the Parliamentary Privileges Act.

Opinions from the Solicitor-General Gavan Griffith, Senior General Counsel and a Principal Legal Officer from the Attorney-General’s Department all disagreed with Harry. Addressing the National Crime Authority matter, Gavan Griffith concluded that ‘the law of parliamentary privilege is irrelevant’.





▲ Officers of the Department of the Senate appearing before the Senate Standing Committee on Finance and Public Administration in 2008

The Senior General Counsel opined *inter alia*: ‘given under the Sports Drug Agency Act that even the Minister has limited authority to obtain such information I do not consider that Parliament could have intended these Committee members to have greater powers in relation to disclosures than the Minister’.

Harry sagaciously responded:

At some stage someone will have to break the bad news to the officers of the Attorney-General’s Department: yes, indeed, the Houses of the Parliament and their committees do possess some powers and immunities which are greater than those of ministers. Some of us are old-fashioned enough to think that that is a constitutionally proper situation.

Ignoring or misunderstanding that the powers of compulsion reside not with committees but with the Senate, the Attorney-General’s Department concluded that the relevant Senate estimates committee did not have the powers of standing committees and consequently Department of Health officers were required to refuse to disclose certain information.

Harry provided two more opinions which demolished those provided to the Attorney-General.

Finally an opinion did emerge from the Attorney-General’s Department which conceded Harry Evans’ central and fundamental point. That opinion concluded without qualification that a House of Parliament or a committee supported by its House may compel the provision of information notwithstanding that a secrecy provision of the kind in question applies to that information.<sup>1</sup>

# Michael Beahan

*Senator for Western Australia, 1987–96 and  
President of the Senate, 1994–96*

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Following my election to the Senate in 1987 but before I took my seat, Gough Whitlam, no doubt mindful of the difficulties he had experienced with a hostile Senate, counselled me not to let the bastards (clerks) seduce me. While proud to have been elected to the Senate I remained ambivalent about the role of the chamber and some of its practices, which I at first thought anachronistic. As time progressed I started to realise the necessity of the procedures and to appreciate the detailed mastery Harry Evans had over these procedures and the intricacies of law-making. His faultless handling of the long, arduous and complex Mabo debate impressed me immensely and my metamorphosis from politician to parliamentarian was underway; a process which Harry had a large part in completing when I became President.

While my awareness of Harry's quiet competence had grown, it was not until I became President that I really came to appreciate his true value to the institution of parliament. A fierce constitutionalist and defender of the separation of powers, he saw the Senate as the only means of holding governments to account. From the perspective of the President's chair this made sense to me. What is the point of having a parliament if it simply rubber stamps executive decisions?

*'A fierce constitutionalist and defender of the separation of powers, he saw the Senate as the only means of holding governments to account.'*

Despite strong views on the role of the Senate and an uncompromising drive to defend the institution, Harry was open to ideas and criticism, sometimes leading to change. I once challenged him on his writing style which I felt was often unnecessarily blunt. He was bemused but accepting of my views. On another I expressed the view that the dual roles of the Clerk as chamber manager and administrator of the Department of the Senate demanded quite different skill sets and should be separated. He agreed, indicating a willingness to support this, but making it equally clear that the independence of the chamber must be paramount.

The sensible but progressive move to dispense with wigs was at Harry's initiative, although it took a conservative President to secure the numbers where I had failed.

Dealing with Harry was not without its difficulties. I made it clear to him but to little effect that public attacks on the prime minister of the day (the leader of my party) by him



and senior members of Senate staff were unhelpful. To be fair the said prime minister was prone to acerbic attacks on the Senate. Harry's response on these occasions was neither defensive nor dismissive. He listened to my views intently, sympathised with my position, but quietly asserted his.

On the other hand we were firm allies when arguing for Senate appropriations or appearing before estimates committees.

Notwithstanding minor differences of opinion Harry was fiercely defensive of my position as President and helpful and supportive when I came under attack. I valued his counsel highly and sought it frequently. He responded willingly, not so much in support of me (although I ended up counting him a good friend) as in support of the position I then held.

I was, in the end, seduced. Sorry Gough.

# Andrew Murray

*Senator for Western Australia, 1996–2008*

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The Senate's significant achievements on the accountability, independence, process and procedure fronts generally require a long and sustained effort. That effort is aided enormously by principled attitudes and strongly articulated values. Harry had these attitudes and values, always presented with determination, consistency and integrity.

Harry and I hit it off because we were both parliamentarians, both determined to strengthen the Senate as an institution not only doing its representational duty and helping promote the welfare of all, but striving to protect the people from bad law or the abuse of power, through well-informed inquiry, accountability and debate.

Politics is the contest of interests, ideas and commitments, inevitably realised through money and power. The ultimate exercise of money and power is through government. Our governments control the numbers in the House of Representatives, and its outcomes. That puts a particular onus on the Senate, where governments generally do not have the numbers, to keep governments accountable.

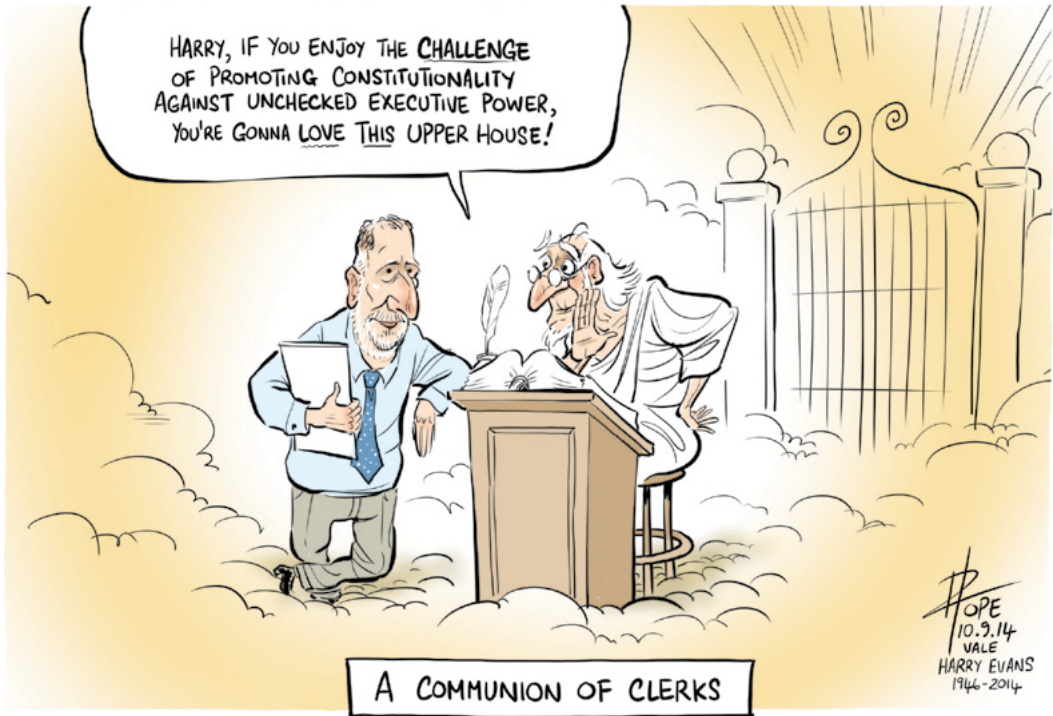
Harry took that onus to heart. Throughout his long parliamentary career, and my shorter one, we were both dedicated to the Senate being a necessary and independent check on legislation, the use of money, and power.

*'It is one thing to have a democratic system of institutional checks and balances, it is quite another to ensure that those checks and balances have teeth and operate with integrity. Harry was fearlessly alert on those fronts.'*

It is one thing to have a democratic system of institutional checks and balances, it is quite another to ensure that those checks and balances have teeth and operate with integrity. Harry was fearlessly alert on those fronts. So if I had an issue that touched our accountability hearts, I would test propositions on him.

Such propositions he supported included that parliamentary approval for declaring war was essential<sup>1</sup>; that an Australian republic merited a directly elected president<sup>2</sup>; that the GST proposals would benefit from a unique multi-committee examination<sup>3</sup>; securing the first audit of parliamentarians' entitlements in 100 years<sup>4</sup>; and that much higher standards were required in government budget practices.<sup>5</sup>





▲ David Pope, 'A Communion of Clerks', 10 September 2014. Reproduced courtesy of David Pope.

One of our enduring achievements became what is known as the Murray Motion. I became obsessed and frustrated that hundreds of billions of dollars in government contracts were virtually hidden from parliamentary oversight and accountability. Harry shared my concern, having himself long noted that when government contracts were let they were not readily available for parliamentary and public scrutiny, and were loaded with unnecessary confidentiality provisions. Harry and I spent many hours thrashing through what should be disclosed publicly. Then it was my task to get the Senate to agree to demand the government list on its website an indexed list of all contracts, and their key provisions. They now do. The 2001 motion as amended still stands as a significant Senate accountability achievement.<sup>6</sup>

# John Faulkner<sup>\*</sup>

*Senator for New South Wales, 1989–2015*

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Tonight I want to recognise the public service of a very private man, Harry Evans. Harry was the longest serving Clerk of the Australian Senate ever, but it is the quality, not the quantum, of his service I want to acknowledge this evening.

Harry was a country boy, born in 1946 to dairy farmers who owned land near Lithgow in the foothills of the Blue Mountains in New South Wales. After high school, Harry enrolled in an arts degree at the University of Sydney, where he developed an interest in the history of our democracy.

Harry graduated with honours from Sydney University, and in 1967 moved to Canberra to begin work in the Parliamentary Library. His career as a Senate officer began when he was asked to assist in the compilation of a new edition, the fourth, of *Australian Senate Practice* by the Senate's then Clerk, Jim Odgers. *Odgers' Australian Senate Practice* remains the definitive guide for staff and senators trying to navigate the intricacies of Senate procedure and practice. Harry Evans oversaw six further editions of the work and, in a reflection of our times, introduced an online version.

*'Harry Evans treated all those who sought his advice—the brilliant and belligerent, the sharp of intellect and self-important, the strugglers and the time-servers—with the same “patience, good humour and intelligence”.'*

Harry's intimate knowledge of Senate procedures led to work in this chamber, first as Assistant Clerk, later as Deputy Clerk and finally, of course, as Clerk of the Senate. He would remain as Senate Clerk for 21 years.

During this time, new voices and new parties entered the chamber. To assist them, Harry set up the forerunner of the Procedure Office as a means of providing non-government senators advice on chamber procedures and draft legislation.

Over many, many years, Harry Evans observed the ebb and flow of this country's political life. His was literally a front-row, albeit not front-bench seat, at the table,

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<sup>\*</sup> Reprint of a speech made on the adjournment debate by Senator Faulkner on 23 September 2014. John Faulkner was Senator for New South Wales from 1989 to 2015 and Leader of the Opposition in the Senate from 1996 to 2004. He was a minister in the portfolios of Veterans' Affairs (1993–94), Defence Science and Personnel (1993–94), Environment, Sport and Territories (1994–96), Defence (2009–10) and Special Minister of State (2007–09).



◀ One hundred years of Senate standing orders

to the right of the President on the floor of the Senate. All the while, Harry found time to write about the purposes and practices of our great democracy.

His contributions covered issues as diverse as the constitutional basis of an Australian republic, the role and reform of parliamentary privilege and the tension between past practice and present necessity in parliamentary procedures.

He was instrumental in redrafting Senate procedures for this parliament's new home. This work resulted in halving the more than 400 standing orders used when the Senate sat in Old Parliament House. Harry's clear and simple revisions remain a testament to his clarity of thought; their efficacy illustrated by the fact that they remain in place some 20 years later.

But through his professional life, Harry Evans emphasised the importance of the Senate as a check on executive power. Clearly and consistently, he reminded us that the Constitution alone determines the powers of the parliament, the House and the Senate. This was a constant theme, of advice and in practice.

Harry Evans entered the public service a historian and left as one. For more than 20 years there was no closer observer of the workings of the Senate and the contributions of senators. Reflecting on his time in this place he wrote:

With that perspective, it is possible to identify long-term trends which have an appearance of inevitability about them. It is also impressive, however, how many significant events were determined by pure chance, particularly the presence at crucial times of somewhat peculiar individuals.<sup>1</sup>

He is right, of course. In many respects, life in the Senate is no different to other fields of human endeavour—fate and circumstance play their part. The workings of this parliament are often of course a product of how peculiar individuals respond to extraordinary events. But Harry also reminds us that this chamber reflects the will of the people. To quote him:

The performance of the Senate, and any house of parliament, is ultimately in the hands of the electors. [And in this] There may well be room for improvement in the civic-mindedness and attention to public affairs.<sup>2</sup>

Harry's civic-mindedness and attention to public affairs was never in question.

Laura Tingle, writing in *The Financial Review*, reminds us that Harry Evans treated all those who sought his advice—the brilliant and belligerent, the sharp of intellect and self-important, the strugglers and the time-servers—with the same 'patience, good humour and intelligence'.

In 1989, when I entered the Senate as a newly minted senator for New South Wales, Harry Evans was already an institution. As Manager of Government Business in the last term of the Keating Government, and then as Leader of the Opposition in the Senate for more years than I care to remember, I sought his advice and counsel on countless occasions. There were times I did not follow his advice or agree with it. I learnt on those comparatively rare occasions that Harry was a master of non-verbal communication. Of course he said nothing, but he looked at you and he just seemed to exude exasperation and disapproval. I suspect, though, he just accepted that politics was like that.

Of course, Harry Evans' loss is felt deeply by the staff of the Department of the Senate. Informing senators of Harry's death, his successor as Clerk, Dr Rosemary Laing, said it all:

Harry's contribution to the Senate as its Clerk will never be equalled and those of you who knew him will remember his fierce defences of the Senate as an institution, the rights of individual senators and of the value of parliamentary democracy. He was an inspiration to those of us who had the privilege of working for him and learning from his example. Professionally, he was the finest man I ever knew.

I, too, admired Harry Evans—his fierce independence, his fearlessness, his professionalism and his integrity.

Harry Evans passed away earlier this month. He was 68. My condolences go to Harry's family, his friends and all those he mentored in this place.

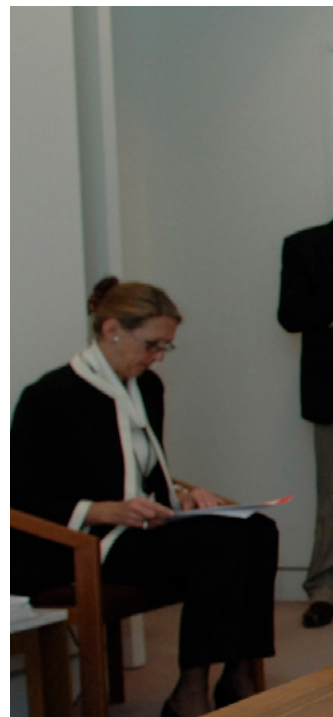




- ▲ Clerks of the Senate Harry Evans and Rosemary Laing (left) pictured in 2009 with five of the six Presidents with which Harry Evans served. From right, the Hon Alan Ferguson, the Hon Michael Beahan AM, the Hon John Hogg, the Hon Margaret Reid AO and the Hon Kerry Sibraa AO. The sixth President was the Hon Paul Calvert AO.

- (Right) Harry Evans at the Clerks' table, with Cleaver Elliott.

(Far right) Harry Evans (right) in 2005 presiding over a briefing on the Senate business conducted on sitting days known as 'Crows'. The name derives from the black gowns formerly worn by clerks at the table. Also present (from left) are Rosemary Laing, Brenton Holmes, Andrea Griffiths, John Vander Wyk and Richard Pye.



# Rosemary Laing<sup>\*</sup>

*Clerk of the Senate since 2009*

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## Colleagues

Some figures from Human Resource Management came my way this week indicating that departmental employees currently have an average length of service of 7.1 years with around a quarter having more than 10 years' service in the department and slightly under another quarter having less than two years' service.

The significance of this is that the average Senate department employee knew Harry Evans as Clerk, but a good quarter of the department did not. In this Bulletin, I wanted to remember the Harry that so many of us knew and to leave with those who didn't know him an impression of the wonderful man that he was.

As a Senate officer, Harry was without peer, and the contribution he made to the development of a professional, merit-based parliamentary service was outstanding. His support for the Senate through such initiatives as the *Parliamentary Privileges Act 1987*, and the modernisation of the standing orders in 1989 and *Odgers' Australian Senate Practice* in 1995 leave a legacy that will last for decades.

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<sup>\*</sup> This article was first published in the Department of the Senate *Staff Bulletin* on 18 September 2014.





But Harry was not just Clerk-extraordinaire. He was a fantastic person to work with, although with his black hair and beard, gimlet eye and low growl he could also be terrifying! I eventually came to the realisation that this was a test to make sure you produced your absolutely best work (and that, yes, you had consulted ‘The Book’). If you did, there was rarely any overt acknowledgement at the time, but the work—whatever it might have been—was quietly tucked away in one of those ubiquitous folders on his desk to be deployed for whatever purpose it had been sought. And one day, you would receive some generous sign that it had been appreciated after all.

Regardless of whom you were, Harry treated everyone with the same respect, courtesy and good humour. A 10-year-old boy’s enquiry about the Senate would be met with the same serious response as that of a former chief justice or a serving senator or a professor of this or that, always accompanied by a clear explanation of the rationale for a particular course of action or occurrence. He always answered the phone and ended a conversation in exactly the same way, but made you feel that you had his undivided attention. And those bold colleagues who rang his private line directly, rather than going through any of his devoted executive assistants, were never taken to task by him for disturbing the Great Man. He never thought of himself as such.

Both Harry and the late Anne Lynch were links with the Senate Department of Odgers’ day and Harry, in particular, was fond of recycling some of Odgers’ favourite sayings. If someone reminded him they would be



on leave the following day or week, or if they took their courage in their hands and actually applied for leave, the quick rejoinder was always, 'Some people have good jobs!' Likewise, at 2 or 3 am or whenever it was that the Senate had sat until, Harry would generously offer, 'You can go home if your work's up to date'. I am sure that recipients of these pearls will continue to pass them on to others with wry memories of someone who was probably only half joking at the time!

Harry was a voracious reader of history, public affairs, natural history, archaeology, constitutional law and matters parliamentary, among many subjects. At our pre-sitting briefings on sitting days he would often have collected some precious piece of arcana to delight us with, like the bower bird's shiny blue fragment, whether it was about the intelligence of crows (also a familiar name for clerks), the habits of Shakespearean compositors, or the travails of his favourite English Civil War Puritan hero, the dour Edmund Ludlow, who regarded Cromwell as a bit of a lightweight. Ornithology and the bush were also great passions and Harry was a font of knowledge about anything with feathers or fur. Make no mistake, however, he also pursued a personal, armed vendetta against vermin in the landscape, as his recipe for baked rabbit (submitted for a social club fundraising cookbook) shows.

Microscopic vermin were also in his sights, possibly explaining why it was only the most charred sausages that would pass the Evans edibility test at any social club barbecue where the rangy figure with a slight stoop, dressed in R.M. Williams boots, moleskins, a blue





chambray shirt and tweed jacket could always be found participating in a modest amount of social cheer, but only till it was time for everyone to ‘get back to work’.

The playful instinct to tease was also sometimes apparent in Harry’s choice of ties, notoriously so when US President Bill Clinton addressed a joint meeting of the Houses (in the days when we still had such things). On that occasion, Harry wore his Republican tie with a pattern of tiny elephants (the elephant being the symbol of the Grand Old Party, while the donkey represented Clinton’s party, the Democrats). I am sure it gave him great pleasure to watch Clinton’s expression as he finished his address to the Houses from a lectern between the two Clerks, and turned to the person on his right for the first handshake—the tall geezer wearing the elephant tie!

Of the many emails I have had from people in all walks of life, it was a former staff member who hit the nail on the head, quoting Hamlet: ‘I shall not look upon his like again’.

▼ Rosemary Laing and  
Harry Evans in 2008



## **Baked Wild Rabbit**

### **The Clerk's Best Recipe**

This family favourite was always eagerly anticipated by the children, as indicated by their enthusiastic rolling their eyes and joyful wrinkling up their little faces whenever it was suggested, and their subsequent anxious inquiries as to when we might have it again.

1. Shoot two or three rabbits. (Those who find shooting distasteful may prefer to set their dogs to catch some of the long-eared delicacies, or to search a few kilometres of country road, although the latter method, according to those who practise it, is better suited to rabbit casserole.)
2. Skin and clean rabbits, removing any lead particles as necessary. (At this stage the juvenile diners should be distracted elsewhere, in case the deceased game arouses their childish sympathies and spoils their appetites.)
3. Wrap rabbits generously in strips of lean bacon, cover and bake in a moderate oven until the earthy odour has somewhat dissipated.
4. Garnish to taste. The application of approximately one litre of tomato sauce may be preferred.
5. When the dish is served, it is recommended that the cook set an example by chewing vigorously, praising the tenderness of the meat, and exclaiming "shut up and eat it!" at frequent intervals.
6. If diners prove too fractious, or game not up to the usual standard, toss rabbits to dogs and consume bacon only.

*Harry Evans* 





# Notes

## Gareth Evans

- <sup>1</sup> See Harry Evans, '1975 revisited: lost causes and lost remedies', *Papers on Parliament*, no. 52, December 2009, pp. 31–5.

## Noel Crichton-Browne

- <sup>1</sup> Opinions of the Attorney-General's Department and advice of Harry Evans on secrecy provisions can be found as appendices of the explanatory memorandum to the Parliamentary Privileges Amendment (Effects of Other Laws) Bill 1991.

## Andrew Murray

- <sup>1</sup> Senate debates, 4 March 2003, pp. 8998–9000.
- <sup>2</sup> *Trusting the People: An Elected President for an Australian Republic*, with an introduction by Andrew Murray, Design by Design, Perth, 2001.
- <sup>3</sup> Senate debates, 12 November 1998, pp. 252–4; *Journals of the Senate*, 24 November 1998, pp. 143–50, 25 November 1998, p. 166.
- <sup>4</sup> Australian National Audit Office, *Parliamentarians' Entitlements: 1999–2000*, Report no. 5 of 2001–2002, ANOA, Canberra, 2001.
- <sup>5</sup> Andrew Murray, *Review of Operation Sunlight: Overhauling Budgetary Transparency*, Canberra, June 2008.
- <sup>6</sup> *Journals of the Senate*, 20 June 2001, pp. 4358–9, 4 December 2003, p. 2851.

## John Faulkner

- <sup>1</sup> Harry Evans, 'Time, chance and parliament: lessons from forty years', *Papers on Parliament*, no. 53, June 2010, p. 1.
- <sup>2</sup> Harry Evans, 'The role of the Senate', *Papers on Parliament*, no. 52, December 2009, p. 99.



◀ (Top) The Senate in the provisional Parliament House in November 1987

(Bottom) The opening of the forty-second Parliament by the Governor-General, Major General the Hon Michael Jeffery AC AO (Mil) CVO MC (Retd), on 12 February 2008







Harry Evans on his farm  
near Mongarlowe  
Image courtesy of the Evans family

*"When he retired as Clerk of the Senate, Harry Evans was asked how he hoped to be remembered. 'Probably as a troublemaker', he replied with a grin. That's certainly the way Paul Keating saw him. John Howard, too, after becoming prime minister ... Almost from the start of his 21 years in the job, whichever party was in office regarded Harry as trouble."*

Laurie Oakes