

Committees Under a Government-Controlled Senate: Lessons From 2005–08

CHAIR (Mr CARTER) — My name is John Carter, and I will be chairing this session. You will recall that in the 2004 election the coalition won a near majority in the Senate, and from the following year it was able to pass its legislation with the help of sympathetic independents. As the time of the new Senate approached, I am sure you will also recall the letters to the editors of newspapers and all the commentary that was going on, much of it full of gloomy prognostication about what was going to happen to the Senate and to its committees. It was claimed that the Senate would cease to function effectively as a house of review, and as an enforcer of government accountability because the investigatory and scrutiny functions of the committees would be blunted.

The question arises as to whether the performance of the Senate committees during 2005–08 was demonstrably below par, or was it the case that, as Robert Ray observed yesterday, Senate committee conventions and practices which had developed and consolidated over decades were sufficiently robust to ensure their continued effectiveness even at a time when one party had control of the Senate. We are all looking forward to some interesting perspectives on this question from our two speakers today who were, in different ways, involved in the committee processes during those years.

Our first speaker, Claire Moore, has been a Queensland Labor senator since 2002. She is someone who has a strong interest in social policy, and she has been notably active on the Community Affairs Committee and other committees as well. Senator Nick Minchin has been a Liberal senator for South Australia since 1993 and was a minister for the duration of the Howard Government. But of particular relevance to this topic is that he was the Deputy Leader of the Government in the Senate from 2003 to 2006, and Leader from 2006 to 2007. In these capacities he was strongly influential in the way that the coalition went about modifying the committee structure to achieve its ends. I hope we will enjoy hearing some insights into these matters. Would you please welcome our first speaker, Senator Moore.

Senator MOORE — Thank you, Mr Carter—I like brief introductions. I want to acknowledge the place in which we are standing and naturally I share in the acknowledgement of the traditional owners and pay my respects to all elders and all cultures. One cannot help but be moved when feeling the history of this place and knowing that it is the place where the issues about which we are talking were born. I think that makes it a particularly apt place for us to have our discussions today.

One of the things that permeates all the debates in Hansard about any change to the Senate structure is how often the word ‘accountability’ is used. I did not read all the Hansards, but I did read your speeches, Nick, to see how often the word was used when such changes occurred. I did look at the Hansards from 1994, I had a look at the Hansards from the period in 2006 when the changes came and I even looked at the Hansard of 2009 when the changes were made again. There was variation in the amount of commentary that was made and in the passion in the speeches. I was not there in 1994—I know Nick was—but I was there in 2006 and 2009. So I am not sure, for the 1994 debate and perhaps even for the debates at which I was present, how much of what we read was genuine and how much licence was being taken to indulge in some of the wonderful dramatic performance that happens in the Senate—and should happen in the Senate because it makes it interesting. But ‘accountability’ was mentioned over 40 times in the 2006 Hansard during the debates about the changes to Senate processes that were going to take place.

Everybody was in agreement about the fact that there needed to be accountability. There was strong agreement that it was needed. However, there was just as strong disagreement about how it was going to occur. In some ways, this is reflected for me in what has happened with the recent election result. I am not convinced that a whole lot of people outside those of us who are here today are deeply concerned about the operations of the Senate. I think they should be, but I do not think they are. I am not convinced that, until the recent events, a whole lot of our community knew you needed 76 seats in the House to hold government. They knew someone had to have the majority, but no one could work out why it was 76. I received calls on this subject in my office. It was just interesting to see that the recent election result, which everybody in Parliament saw as quite tumultuous, forced people in the community to have a look at the way the system operated. My premise is that the changes to the operation of the Senate committee system in 2006, of deep interest to those of us who were in the Senate and to those of us who study the Senate, possibly led to more interest in open debate about how the Senate operated. I think that is something that should be tested. In fact, I am going to talk more today about further questions that can be asked rather than answers that I have.

When Senator Ellison came in and announced the changes that he was going to take to the Procedure Committee, which was government-dominated of course, and then came back a few months later and reported what had happened in the Procedure Committee, he talked about the need for change and the need to be accountable. He also noted that there had been a great deal of discussion with government backbenchers in the Senate and that the need for those 2006 changes came from those backbenchers. This was agreed by all government speakers—it was specifically

mentioned by Senator Ellison and Senator Minchin that that was what had been the driver for change. They said that there needed to be more flexibility, more accountability and an absolute commitment from all those involved that there would be accountability and effective operation of the Senate.

There were some colourful responses from people who did not accept the government's commitment or believe that the changes were the way to go. I encourage people to have a look at some of the speeches. One speech of note was that of Senator Evans, who was outraged by what has happening and described it as 'the government taking control of the Senate and entrenching its power to control what the Senate does'.

That was what it was all about: removing effective accountability and changing the way we were going to operate. Senator Evans ended his comments with:

Labor are strongly opposed to the changes to the standing orders that flow from this Procedure Committee report. We think they are a backward step.

In fact his whole speech said it was a backward step. He went on to say, 'We pledge to reverse them'. The Labor Opposition then pledged to reverse the changes.

I have to admit that Senator Brown went even further in his statements about what was going to happen to the operations of the Senate, and I have to admit to a certain fondness for the statements of Senator Ray—which you will not be surprised about if you heard his contributions yesterday. The focus of his speech was basically that what goes around comes around: 'What are you going to do? If you get us, we're going to get you back'. In fact, that is basically what his speech said. He said:

There is an underlying compact in this place that you behave with a degree of decency et cetera. I am not saying you have totally exceeded that, but you should understand it. If you misuse and abuse your majority, retribution will come. And it will come, naturally.

I happened to be in the Senate at that stage for that speech, and there was real passion behind those words. I cannot reflect that passion effectively, but you all know Senator Ray's position and the way he presents:

I have to return to the question: why the changes? We heard the little bleat, 'We want to go back to the way it was under Paul Keating'. Really? Why? Why did you put all—

and this was done with great emotion and the finger. You always know that the point is going to be important when you bring in the finger. I remember it very well, because Senator Ray had one foot on the chair, which is something I cannot do because I cannot reach it. He was leaning across the chamber saying: ‘If it was so good in ’94, why did you work so hard to change it? You, you and you—why did you work so hard to change it?’

The important thing in this process is that there were many people in the Senate in 2006, on both sides of the chamber, who had been there in 1994, and I think that that brings to the debate around what happened in 2006 a particular focus, because what is happening in the Senate now—and former Senator Knowles was referring to it yesterday—is that there is so much change happening that we do not have too many senators who have that long, extended knowledge of exactly what occurred in the place. People know about it through history, but they were not there. The passion in the debate in 2006—because there was a significant difference of opinion about what was the motivation for the change, the impact of the change and who was going to be affected—was because a lot of the people, mostly men, who were sitting in that chamber in 2006 had been there in 1994, so it was a very personal debate. You can see by the interchanges—even the few that Hansard pick up—who were the key players across the room while these debates were going on. They were all senior senators who had personal experience of the ways of changing, and I think that is really important.

As Senator Evans said in his speech, of course the changes in 2006 were going to happen; the government had the numbers in the Procedure Committee and on the floor of the Senate. So all this passionate debate about accountability, what was going to happen and why people were making the changes was in fact theatre, because, as Evans said, it was going to happen. There would be outrage expressed, but it was going to happen. Of course, the day after the changes happened, the Senate continued operating the way it always does. If you do a purely mathematical calculation of how many issues were referred to various committees and how many activities occurred, you will see that there was not a plummeting in referrals to committees post 2006. In fact, some committees had more references. Something else needs to be done to scrutinise the real impact of the change—because we all know what the change was in terms of government numbers: every committee that was set up would have a government majority and a government chair. The focus around what was going to occur was that in one case the government was saying this would cause more accountability, because the government would have to work harder to ensure that people saw it was doing the right thing. People opposed to the change were saying it was all about power and stopping any scrutiny of government action.

If you were going to do a mathematical study, you would have to say that activity in all Senate committees happened apace. There was no reduction. In fact, bills continued to be referred to every Senate committee—every government-dominated Senate committee—and references were referred as well. In the committee that I work in—I am shamelessly biased about this; I think Community Affairs is a splendid committee, and I am sure everyone agrees—in terms of focus we continued to have a very large workload, as we have always had. The number of bills that we looked at actually increased in this period; it increased further under the next government.

What did change were the references. The four references that were given to the Community Affairs Committee under this period of government dominance were all government references. They were really important references, and I do not think we should not have done any of them, but none of them came from Opposition, Greens or Democrats senators at the time. They were all government-negotiated references. They were important, but the issue remains whether in fact they were the most important issues to be addressed at that time. I cannot speak for other committees. I think all the work that was done was valuable, but they were all government-approved processes—which they would have to be anyway, because the Senate committees operate from the Senate by the Senate to the Senate. When the government had the numbers on the floor of the Senate, they already had the ability to determine which references would be taken up, because you have to go to the Senate and say, ‘We support referring this issue’. When we have a look at ‘The Red’ every day we are always seeing what could be referred to the Community Affairs Committee, which shows our concern about our workload. We see what is coming. A vote of the Senate to determine whether something was agreed would automatically be determined by the Senate.

What has not been scrutinised and what I think would be a fascinating topic for anyone wanting to do a masters or PhD in this area would be to look across the Senate committees at what the references were, who brought them up and what the outcome of them was. I also think it would be extremely interesting to have a look—and this came up briefly in conversation yesterday—at the time frames for consideration. One of the things with which we are constantly struggling with the Senate process is allowing effective time for any consideration of Senate activity. I do know, with a little bit of scrutiny, that there were very short time frames, particularly for legislation inquiries, during that parliament. I state immediately that there are very short times for legislation inquiries under this parliament, so I cannot make an argument saying that it was shorter in the 41st Parliament than it was in any other, but I think it could be considered if people think that this is something that should be studied.

I want to talk about one particular issue—that is, the issue of the Northern Territory intervention legislation. That was one that I felt very strongly about and that was rushed through Parliament with only one day’s hearing on one of the most significant pieces of legislation that I think have come before the Parliament. We heard yesterday as well that there was no acceptance to bring people to that hearing that we thought should have had their voices heard before the debate. I think that is also something that should be subject to scrutiny to check out the accountability issue. But I also think that, if you are going to be fair in scrutinising what happened under that three-year period of government dominance in the Senate, you should be scrutinising periods on either side. It is a large body of work, but I think it would be really exciting for someone to do it, and that is one of the things I am asking about now.

Another issue of accountability where I cannot draw an immediate comparison between what happened under government dominance and what happened when there was not government dominance of the Senate process is the government response times. There is a convention that government responses to Senate inquiries should be within three months. That is just a joke. If you look at what happened—and it is one of the true worries I have currently in the Senate system—it was bad in the 41st Parliament, but it was not great in the 42nd or the 39th or in any other parliament. If you have a look at it—and I have done some work here looking at Senate responses and how long it took the government responses to come through—the shortest one in that period was two months; the longest one was four years and three months. That is around a three-month convention of responding to Senate reports. I think that that is something we should look at together as a parliament, as a Senate, to see what we should do about it.

There was great passion around the changes that happened to the committee system in 2006, and I think that is worthy of scrutiny. Senator Evans made a strong commitment that he would revoke those should government change. When we came to government in 2007, immediately, in 2009, we made those changes. When we came to power in 2007 the Senate changed in 2008, so it was actually within a year that the changes were made to revert to the system that had been happening since 1994. There was a change back. It went through the Senate Standing Committee on Procedure again. There was great discussion within the Procedure Committee and a report happened. In 2009 Senator Jan McLucas actually moved the change to revert to the previous system in the Senate without debate. She moved it, and I do not think most people knew it had happened. Then we reverted to the system that was operating before 1994.

We need, I think, to be fair in our scrutiny. I enjoy working under the current system, and that has been for the majority of my very short experience. Yesterday Senator Knowles talked about her feeling that she had become a fossil with the amount of time

she had had in the Senate. Unfortunately, those fossilising tendencies seem to happen fairly quickly. When I am sitting in the Senate now, with very short experience—eight or nine years—when newer senators from the Opposition are getting really upset in estimates or in Senate inquiries about information they cannot get, responses with which they are not happy and regulations that are not there at the same time as the core legislation, I at times think: ‘We never got those! Why should they get stuff that we didn’t get?’ That is not the way of accountability.

Senator Ray’s comments on the idea that ‘what goes around comes around’ are probably true. But what we should be doing in the current Senate is committing to ensuring that what comes around is effective scrutiny, effective accountability and goodwill.

Senator MINCHIN — I acknowledge my current and former Senate colleagues who are here today and thank you for the opportunity to speak at this conference to mark the 40th anniversary of Senate committees—something worth celebrating. I am pleased to speak, particularly in this session, based on my role as Deputy Leader of the Government in the Senate for the first six months of our majority and then as Leader of the Government in the Senate for the final two years of that majority. Note my deliberate reference to the coalition government having a *majority* for 2½ years, in contrast to the description used in the title of this session, which refers to a *government-controlled* Senate. The reality is that the Liberal and National parties had a bare one-seat majority for 2½ of the 11½ years that the coalition held office. Given the fundamental right of Liberal and National senators to cross the floor free of the risk of expulsion, quite unlike our opponents, the Australian Labor Party, then by no means is the term ‘control’ at all appropriate—with great deference to the organisers of this conference.

Indeed, being Leader of the Government in the Senate for two of the 2½ years of that bare majority was probably the most stressful period of my parliamentary life because I knew, and every single one of my 38 colleagues knew, that they individually could hold the government to ransom by holding a gun to the government’s head on every single vote. It required constant and determined effort on my part to make sure that I had 39 votes lined up on every single issue that came before the Senate. Having, like Claire, gone back through the records, I observed that there were 23 separate occasions during that period when one or more coalition senators crossed the floor. So you could reasonably say that I did a pretty lousy job as leader! I suspect that a Labor leader, with a government majority, would have a much easier life and could fairly be described as having control. So, at the outset I do want to dispute the presumption of government control of the Senate in those 2½ years.

I want to turn to exactly what occurred in that period with respect to the Senate committee system. I am sure everybody here would agree that *Odgers* is the most authoritative source on Senate matters. *Odgers*' description of the changes to the legislative and general purpose committees—because that is what we are talking about, not all the rest of the committees—that were made in 2006 is as follows:

In 2006 the pairs of committees in each subject area were amalgamated, returning to the pre-1994 arrangement for the legislative and general purpose standing committees.

That is it, and that is an entirely accurate description of what occurred. That is the one change that the Senate, with a Liberal–National majority, made to the Senate committee system: to return to the pre-1994 arrangements with respect to the legislative and general purpose standing committees. There were no other changes proposed or implemented to any other Senate committees or any other arrangements to do with the Senate committee system.

For those of you who were around at the time, you could be forgiven for thinking that something much more radical and much more dramatic had actually occurred, as I think Claire was hinting. The Labor Party took a massive egg beater to this one change. Kim Beazley, the then Opposition leader, actually had the gall to come out and describe it as 'evil'. The coalition government was accused by Labor of completely trashing the Senate committee system and destroying the accountability of government to the Senate. Frankly, it was the most extraordinarily over-the-top, ridiculous and ill-founded attack imaginable—and I have to say, with great regret, entirely hypocritical. As *Odgers* actually confirms, what the Senate did in 2006 simply was to revert to the arrangements in place from 1970 to 1994 and thus for most of the period of the Hawke–Keating Labor government.

I was in the Senate in 1994 when that longstanding arrangement, which everybody seemed happy with at the time, was changed. The then Labor government was very cynical about the change to a split committee system. Claire has quoted Robert Ray in the 2006 debate. I was there in the 1994 debate when Senator Robert Ray, on behalf of the Labor government, said 'There is no government ownership in any of this' in his contribution to the debate and clearly questioned the motives behind that change. I know the motive very well because I sat as a humble new backbench senator in the coalition party room from mid-1993 onwards where that split was given birth. The then Liberal–National Party Opposition did not like the fact that the Labor government, then with only 30 out of 76 senators—I think the lowest number of senators that any government has probably ever had—chaired all the legislative and general purpose committees. The Opposition, then with 36 senators, chaired none.

That meant Labor senators got the extra salaries and the status of chairmanship and Opposition senators missed out entirely.

Former senator Noel Crichton-Browne, whom some of you may have heard of, was then Deputy President of the Senate. He led a very spirited campaign against this ‘absolute outrage’ and wanted it fixed. Of course the way to fix it was to split those committees in two and create extra chairmanships for non-government senators. Robert Ray knew as well as I did what the motive was, hence his cynicism in the debate in 1994—and hence my cynicism about Labor’s weeping and gnashing of teeth when the pre-1994 arrangements were reintroduced in 2006. This was exactly the system that Labor had had in government from 1983 to 1994 without any complaint, and yet in 2006 suddenly it was ‘evil’.

I must confess that, with hindsight, I wish we had never voted for the re-amalgamation of the split committees in 2006. We completely underestimated Labor’s cynicism; we underestimated the media’s compliant support of Labor’s confected outrage; and we gave the Opposition far too easy a stick to beat us over the head with. The change, which, as I say, was not all that dramatic, really was not worth the completely manufactured and confected political trouble that then ensued. The momentum to revert to the pre-1994 arrangement began in the coalition party room straight after that 2004 election when the people had, by virtue of our results in two elections, given the coalition a majority, and frankly was unstoppable by the time I became leader at the beginning of 2006. I may engender some dispute with this statement but I was quite sensitive as Leader of the Government in the Senate to any suggestion of coalition abuse of our one-seat majority and did go out of my way to ensure that we were not and were not seen to be guilty of such abuse. Indeed, I incurred the wrath of my National Party friends by resolutely opposing their plan to have a National Party senator elected Deputy President of the Senate at that time, instead of the tradition of an Opposition senator filling that office, and had a robust argument with then Prime Minister Howard about that matter. I am proud of the fact that I was able to ensure that, by and large, we did refrain from abuse of our majority.

There was only one full calendar year when our government had a Senate majority; that was 2006. In that year, 98 bills were referred to Senate committees for inquiry and report, the highest number of bills ever referred in a calendar year up to that time and double the annual average number of bills referred when Labor was last in government. In 2006 we dedicated what is now the tradition of four sitting weeks to estimates, and government ministers answered 1100 questions without notice, 800 of them from non-government senators. Of course we did not hold a candle to Labor on limiting debate on bills. Labor still holds the record, with the guillotine used for 57 bills on 16 June 1992 and 52 bills on 13 December 1990. From July 2005 to the end

of 2006, the 18 months of our 2½ years, the coalition used a time limitation for 32 bills in the face of obvious filibustering and we did not limit debate on any bills in 2007.

It is a pertinent and interesting fact that in the history of the Senate over its 110 years only 30 bills have had debates longer than 20 hours, and 15 of those 30 occurred under the Howard Government. So I have no shame in saying that the coalition respected the practice and procedure of the Senate during that relatively brief period of our government majority. The one change to the committee system that did occur was simply to revert to the arrangements for the legislative and general purpose committees that operated from 1970 to 1994. Indeed, we ensured that Opposition senators would be the deputy chairs of those committees and we ensured that for the first time they would be remunerated for being deputy chairs.

The motivation for the 2006 change was largely a function of what we saw as an abuse of the split system by the other parties. As is well known, the intention of splitting the committees in 1994 was to have legislation go to a legislation committee chaired by a government senator and references go to a reference committee chaired by a non-government senator. What we experienced after we came into government in 1996 was the cynical practice of referring bills to the references committees, a complete corruption of the intent behind the split system. From 1996 to 2005 legislation was referred to references committees instead of to the legislation committees on 146 separate occasions to ensure that committees run by non-government parties would deal with the bills in question. That flagrant abuse of the 1994 changes was the primary motivation for the coalition to support a reversion to the pre-1994 arrangement.

Following the defeat of our government in 2007 and the loss of our majority on 1 July 2008, the Procedure Committee again examined the structure of the legislative and general purpose committees. As Leader of the Opposition at that time I was a member of the Procedure Committee. The April 2009 report of the committee accurately records the basis of the committee recommendation, subsequently adopted by the Senate, to reinstate the 1994 arrangement. Importantly, the committee noted that one of the motivations for the 1994 changes had been to reduce the need for the appointment of select committees, effectively by having the separate references committees do that work. In 2008–09, under the scheme of unified committees, eight select committees were appointed and the Procedure Committee, I think wisely, advised that in recommending a return to split committees no more than three select committees should exist at any one time. The committee also sensibly advised that there should be an understanding that bills be referred only to legislation committees, thus dealing with what I referred to before as the previous abuse of the split system.

The one change that was made to the committee system under the coalition's Senate majority has, with coalition support, now been erased, and we are back we were in 1994. Part of the title of this session is 'lessons from 2005–08'. I am not sure what they are, but I suppose the big lesson for me is never to underestimate the capacity of your opponents to indulge in scaremongering, hyperbole and hypocrisy in relation to Senate committees. I do hope that the Senate has learnt that if the spirit of the 1994 changes had been observed between 1996 and 2005 then the quite unsavoury confrontation and political point-scoring of 2006 could well have been avoided.

I think it is also an experience that reminds us that, whatever system you have in place, the Opposition of the day, whether it is Labor, Liberal or whatever, will always be motivated to use the Senate committee system to embarrass the government of the day. That is just political reality: partisanship will always reign supreme. But I hope the reality of that period, 2005 to 2007, also demonstrates that it is wrong to believe that no government should ever have the opportunity to be a majority in the Senate. The point is—and I know others have said it—that the committee system is robust and the institution of the Senate is sufficiently robust. After the enlargement of the Senate in 1983, a function of certain parties wanting more seats in the lower house but being caught by the Constitution which requires the Senate to be half the size of the House, I for one thought that no government would ever again achieve a Senate majority. We did surprise ourselves at the 2004 election when a one-seat majority was achieved. I simply want to state here today that I think we used that one-seat majority responsibly.

Government Senate majorities are going to remain extremely rare, but I think it right and proper that it remain at least possible under the electoral system with sufficient voter support for a majority to be obtained. May I conclude by saying that, with the formal alliance between the Labor Party and the Greens, entered into by Prime Minister Gillard and Senator Bob Brown, one could reasonably argue that, from 1 July 2011, there will, again, be a government majority in the Senate and even, dare I say, government control.

QUESTION (Ms MARGETTS) — I am just curious: when I was in the Senate there was a particular difference in committees between the lower house and the upper house inasmuch as the lower house committees often had people coming into the secretariat who were under the control of ministers. They were people who came from departments rather than independents. I wonder whether that position has changed. Theoretically, you are meant to have independent people who are not just employed to conduct committees, because otherwise they will feel they will need to please governments to get employed and be on the secretariat. Has there been any change? I

certainly was on a joint committee where someone came from defence, under the control of the defence minister, and only the senators understood there was an issue there. Have there been any changes to the secretariats—that is, the secretariats who are employed the whole year round or who come from departments and just participate in a particular inquiry?

Senator MINCHIN — Dee, I think that question is more appropriately directed to the Clerk of the Senate. But certainly as a senator I can say no, there has not. We are blessed with a very high standard of secretariats in the Senate committee system. I was not conscious of the observation you made about the House. But, from my experience, that is certainly not the case in the Senate.

Senator MOORE — Dee, I think the Joint Committee on Foreign Affairs, Defence and Trade has a formal arrangement whereby people from the military serve a period of time on that committee, working on that committee. That would probably be the one to which you are referring. We are unaware of anything like that and certainly of no contravention of the independence in the way the Senate committees operate.

QUESTION — I am Robyn McClelland, Clerk Assistant (Table) in the Department of the House of Representatives. I think what the former senator may have been referring to is our practice of having secondees work with us in our secretariats. We have a fully staffed secretariat or Committee Office in the Department of the House of Representatives supporting our committees, but on occasions we do use secondees from departments. When secondees work with us, they work very much as staff within the Department of the House of Representatives and they are not answerable to ministers.

In terms of the Parliamentary Joint Committee on Foreign Affairs, Defence and Trade, we do have a military adviser on attachment to that committee, as the senator said, and that role is very much a professional advisory role; it is not one of accountability to the minister.

CHAIR — Thanks, Robyn. I would add: that practice also exists with the Department of the Senate. There have been a couple of secretaries of the Committee on Legal and Constitutional Affairs I recall who had been seconded from Attorney-General's and, from time to time, research officer level people are seconded from departments. Are there any other questions?

QUESTION (Mr BARTLETT) — Ex-senators are dominating question time here! There are many things I could say to that—speeches—but I shall not. I shall just ask questions. One question is to Senator Minchin, on the statistic—and I know statistics

have their problems in terms of comparisons—where I think you said 23 times, crossing the floor, in that period. Firstly, how many of those were Barnaby Joyce? Secondly and more relevantly, how does that compare—you probably do not know off the top of your head but you would probably have a rough idea—with the number of floor-crossings of the coalition senators? It is a noble tradition, I might say, being able to cross the floor—at the time when the Fraser Government nominally had a majority.

This is a question to Claire, or perhaps to both of you, in terms of the issue of at least reducing the problem of the dynamics that can affect the effectiveness of Senate committees, when the government nominally has control. The notion has been raised, I think a number of times over the years, about whether the Senate should not have ministers. I guess I am asking Claire, as, I think it is fair to say, someone who does not see themselves as there to try to become a minister—and I think that is part of why you were a very effective chair. It is not the only reason but it is one. Is there some merit in looking at that? A problem that can come—though it does not always come—is where government people see themselves in the chair as partly there to demonstrate that they are suitable for higher service, and that can distort the way they operate.

Senator MOORE — There was some discussion of that yesterday, Andrew, and my own view is that we should have senators who have the opportunity to serve in every capacity. The history of senators who are ministers, on all sides of Parliament, is very strong. I think someone said yesterday that it gave a certain edginess to the debate. I am not sure whether they are the words I would have used, but the whole concept of having good government and good parliament means that the people who can best serve are able to serve. In my extensive experience: when I was in opposition I thought that the senators from the government, at that stage, were able and effective senators and put their cases effectively, and I think the Labor ministers do the same. So I think we should have that. And it is a shared government process, so the government of the day is in the House of Representatives and the Senate—and this is a minister from the Senate, who may have a personal view about the situation.

Senator MINCHIN — Just briefly: yes, I second that! I do think it is important that senators have the opportunity to serve as ministers. I do not know quite how the business of government would be handled in the absence of ministers, entirely, from the Senate. But what you find is that certain senators on both sides set themselves on endeavouring to become members of the executive. Others make the quite deliberate decision that they do not want to follow that career path; they want to be good legislators and pursue legislative careers, and I think that is healthy. What matters is both parties being able to attract high-calibre people to the Senate. I think that the

absence of any opportunity to serve in government would have a deleterious effect on the quality of senators that the parties could attract, frankly.

In relation to your first question, Andrew—it is nice to be reminded of being asked questions by Senator Bartlett back in the old days—that was a cheeky question. I would not want to bring personalities into this matter—I think that would be quite unfair! But certain senators did cross the floor more than once—that is certainly true. Indeed, my predecessor, Senate government leader, Robert Hill, was one of the most prolific floor-crossers in the Fraser years, you might recall. There is a qualitative difference between a Labor government having a Senate majority and a Liberal–Nationals Coalition having a Senate majority, because of the fundamental difference between our two parties on the question of the right of senators or members of the House of Reps to cross the floor. It simply has not happened in the Labor Party, but, as you and I have observed, it does happen quite a lot on our side.

CHAIR — Please thank our speakers in this session.