

## Introduction to volume 1

### The Senators, the Senate and Australia, 1901–1929

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Biography may or may not be the key to history, but the biographies of those who served in institutions of government can throw great light on the workings of those institutions. These biographies of Australia's senators are offered not only because they deal with interesting people, but because they inform an assessment of the Senate as an institution. They also provide insights into the history and identity of Australia.

This first volume contains the biographies of senators who completed their service in the Senate in the period 1901 to 1929. This cut-off point involves some inconveniences, one being that it excludes senators who served in that period but who completed their service later. One such senator, George Pearce of Western Australia, was prominent and influential in the period covered but continued to be prominent and influential afterwards, and he is conspicuous by his absence from this volume. A cut-off has to be set, however, and the one chosen has considerable countervailing advantages. The period selected includes the formative years of the Senate, with the addition of a period of its operation as a going concern. The historian would readily see it as a rational first era to select.

The historian would also see the era selected as falling naturally into three sub-eras, approximately corresponding to the first three decades of the twentieth century.

The first of those decades would probably be called by our historian, in search of a neatly summarising title, *The Founders' Senate, 1901–1910*. This appellation would draw attention to the importance in the early Senate of founders, those who had participated in the constitutional conventions which drew up the Constitution. They were therefore aware of the debate at those conventions about the purpose of the Senate and the role which was selected for it by the decisions of the conventions, and they had a keen appreciation of the various intentions embodied in the details of the Constitution itself. There were ten such founders who served in the Senate. Three, Richard Baker, John Downer and Thomas Playford, all significantly from the 'small' state of South Australia, which contributed so much to the federation movement and to the Constitution, were delegates at the 1891 convention; Baker and Downer were also at the convention of 1897–98. The others, all delegates of 1897–98, were Richard O'Connor (NSW), James Walker (NSW), Josiah Symon (SA), Simon Fraser (Vic), William Zeal (Vic), Henry Dobson (Tas) and William Trenwith (Vic). All except Trenwith served in the first Senate and all but Downer and O'Connor served six years or more. Trenwith is usually characterised as the only Labor delegate at the 1897–98 convention, and did not enter the Senate until 1904.

All of the founder-senators elected in 1901 were supporters of a strong Senate. To be more precise, they were supporters of the constitutional settlement whereby the Senate gave equal representation to the people of each state and possessed a virtual equality of powers with the House of Representatives. The intention of this arrangement was that no law should pass without the support of a double majority, a majority of the people of the Commonwealth and a majority of the people of a majority of the states, both speaking

through their representatives. In their work as senators they all, according to their own lights, attempted to follow this constitutional prescription. They were influential in setting the Senate's rules and its method of operation and thereby setting the course of the Australian parliamentary system.

Of particular importance was Richard Baker, who was significant as a founder at both conventions and as a leader in the Senate subsequently. At the conventions he doggedly but unsuccessfully attempted to steer the Constitution away from the cabinet system of government, what we now loosely call the Westminster system, whereby the executive power is exercised by ministers dependent on the support of the lower house of the parliament alone. He wanted the Swiss system of federation, a modified version of the American, whereby the executive would be separately constituted and no less accountable to one house than the other. Having lost that battle, he was determined to ensure that the intended role selected for the Senate in the composition of the Constitution was not eroded. It was not to be, in his view, like the colonial legislative councils, and was to be even less like the British House of Lords, but must be a virtually equal partner with the House of Representatives in the legislative process, like its United States counterpart. Baker was elected as the Senate's first President. He was decisive in framing its rules in accordance with his view of its role. He also embodied that view in his presidential rulings. He dissuaded the Senate from accepting a rule, adopted by the House of Representatives and virtually every other Australian house, that the practices of the British House of Commons should be followed in cases not provided for in the standing orders, the written rules. Presidential rulings were thereby elevated to the status of the common law of the Senate, supplementing its statutory law in its standing orders. In his rulings he kept the Senate out of a slavish adherence to British practice, referring instead to the rationale of the Senate and to United States and other foreign precedents. He was conspicuous in his rejection of what might be called the 'Westminster cringe', the view that we had an essentially British system which must follow British norms. This reflected his general outlook. He lacked the general 'cultural cringe' later attributed to Australians. He stood out as a nationalist conservative of a type who became extinct when Australian conservatives came to see Britishness as an essential part of their world view. Although he was Australian born it is significant that, of all the founders and early senators, he probably had the most thoroughly British education, at Eton, Cambridge and Lincoln's Inn. Having had the opportunity to observe the best of British civilisation, he was not excessively impressed with it and was able to see that Australian institutions must make their own path.

The founder-senators were ably reinforced by other supporters of a strong Senate, for example, John Clemons of Tasmania. They were not all conservatives like Clemons, as demonstrated by the liberal John Keating, also of Tasmania, who was notable for his suggestion for a further elected constitutional convention to make necessary revisions to the Constitution. Many had served in state parliaments and were accustomed to the lively interaction between the two houses of bicameral systems which was a notable feature of those parliaments. With senators such as these, the Australian pattern of vigorous bicameralism was set.

We may now smile at the time which these senators devoted to setting the Senate's written rules (an extraordinarily long debate took place on the adoption of the standing orders), and on constitutional questions involving the powers of the Senate. An example of the latter was

the debate on the Sugar Bounty Bill in 1903, which revolved around the question of whether the Senate should make amendments to the bill or request the House of Representatives to make amendments in accordance with the limitations on the Senate's powers of amendment in section 53 of the Constitution. Some senators pointed out that the difference between an amendment and a request was procedural only and therefore it did not matter which course was chosen, but there were others, including Baker, who were determined to ensure that the constitutional provision was interpreted in a manner favourable to the Senate. In response to our smiles they would have quickly pointed out that the question was also of considerable political importance, involving as it did the importation of 'indentured' South Pacific islanders as labourers in the Queensland sugar fields. Great constitutional questions and great political questions, they would have observed, are often one and the same. The debate reflected the dominant legislative issue of the time: tariffs and industry protection.

The most notable feature of the Senate in its first decade, and the defining characteristic of the period, was the relative absence of party discipline. While identified as conservative or liberal, Protectionist or Freetrader, or Labor, senators did not always feel obliged to vote as they were identified or follow a party line. There was a positive disdain for the very notion of party-line voting, for example, on the part of James Styles of Victoria. What party cohesion there was did not help governments much, because no group had a majority.

The Senate was therefore not obliged to accept the proposed laws put up by the ministry, and did not hesitate to amend them. The first Supply Bill was blocked until words suggesting that the House alone provided money for the government were changed to reflect the equal role of the Senate. Nor did the Senate hesitate to require the government to produce information. With allowances for the enormous increase in the volume of business since that time, the early Senate was very like the modern Senate; it is the period of executive control in between which is anomalous.

There was also plenty of free thinking generally amongst senators on the issues of the day. For examples of unorthodox views going against the tide of the times, we may consider Edward Pulsford (NSW) on immigration, race and the plight of Aborigines; John Ferguson (Qld, significantly the oldest senator when elected, born in 1830) on racial tolerance; John Gray and James Walker (both NSW) on immigration; and James Macfarlane (Tas) against the White Australia policy.

The Senate was a body of enormous pluralism, where the men of property and the 'merchant princes' such as Simon Fraser and Frederick Sargood (both Vic) rubbed shoulders with lower-middle class liberals and the first political representatives of labour. Having regard to both its electorate and its composition, the Senate was probably the most democratic assembly in the world at the time.

We search in vain from the very beginning for any evidence of senators voting in state blocks. It is a common misconception that it was the intention of the founders that senators would vote in that way and vote only on the basis of what they thought were state interests. As has been indicated, the founders' conception of the Senate did not involve any such behaviour; the purpose of the institution was to ensure that the legislative majority was geographically distributed across the Commonwealth, a goal which was achieved then and is

still achieved notwithstanding the growth of party discipline. That this purpose of the Senate was understood even by non-founder senators is indicated by the comments of Norman Ewing (WA) on the subject. Senators were, however, heavily influenced by state interests, as illustrated by Thomas Chataway (Qld), the champion of the sugar industry.

There were signs of things to come. The efforts of the Labor Party to impose party discipline on its members pointed to a different kind of assembly in the future. This was illustrated by the deselection by the party of John Barrett (Vic), 'the gentlest of radicals', in the cause of party cohesion, and the way in which Anderson Dawson (Qld) was ousted by his party. The non-Labor leaders and groups also sought to impose greater party discipline even before the challenge of a Labor majority compelled them to merge.

The end of the decade clearly shows a changing institution. Baker and other founders departed. The second President, Albert Gould (NSW), was more of an Anglophile and looked more to British norms. He was a supporter of a strong Senate and opposed to party discipline, but his views were based more on conventional British bicameralism than on the federalist principles brought to bear by Baker. The hegemony of Westminster over Australian institutions was gradually reasserted. In common with other Australians, senators emphasised their British heritage. This tendency of the time was due partly to world developments; the menacing international situation leading up to 1914 gave more value to membership of a great Empire. The temper of the age had an exaggerated reflection in the bombastic Britishness and Empire loyalty of, for example, John Neild (NSW).

The tradition of the Senate using its constitutional powers proved hard to shake, and even affected the Labor Party. This is illustrated in the next decade by the address by the Labor majority in the Senate to the Governor-General in 1914 disputing the advice of the short-lived Cook government that a simultaneous dissolution of the two Houses under section 57 of the Constitution was justified by the Senate's treatment of government legislation. The address is a comprehensive and ringing defence of the Senate's right to exercise its legislative powers.

It is the achievement of a majority in both Houses by the Labor Party in 1910 which marks the end of the decade. It was the end of the time of the founders, and the beginning of greater party discipline and consequent greater executive government control over Parliament. The tighter party discipline was an Australian phenomenon largely emerging from the trade unions and labour movement, but events in the wider world soon impinged upon this significant development.

The second decade would no doubt be entitled by our historian *The Labor Senate and the Worldwide Crisis, 1910–1919*. With its majority in both Houses, and using its new party discipline, the Labor Party sought to implement its economic and social program. It was impatient of constitutional limitations, constitutional theories about double majorities and state-based provincialism. Earlier Labor supporters of the Senate, such as John Barrett (Vic), were replaced by those who heralded the new Labor policy of abolishing the Senate as an impediment to social reform, such as Allan McDougall (NSW). Indeed, changing the Constitution to give the government more power was a significant part of Labor's program. It was an open question whether the constitutional design of the founders, particularly bicameralism, could survive this decade of Labor hegemony (interrupted only in 1913–14 by

the Cook government). The matter was not put to the test. Domestic politics and the unity of the Labor Party were shattered by the Great War. The party split on the issue of conscription, and thereafter the government was a coalition of pro-conscription Labor members and non-Labor parties, the latter themselves a heterogeneous coalition.

Evidence may be sought that these developments did not mean the end of pluralism in the Senate, even in the Labor Party itself. Note may be taken of Albert Gardiner's (NSW) claim to be free of caucus control, and Albert Blakey's (Vic) demonstration of that freedom by his criticism of the Labor government and his expression of more progressive views than were orthodox in the party. It is significant that Blakey was also loyal to Parliament as an institution, as demonstrated by his role in the Chinn select committee; it is also significant that his opposition to conscription led to his defeat. The biographies bring out the three-dimensional character of Labor senators, as evidenced by John Grant's (NSW) promotion of the Henry George single-tax doctrine, and David Watson's (NSW) espousal of prohibition, neither of which were Labor Party policy (nowadays the press would headline this as 'Split in Labor Party over ....etc').

The Presidents of the time, Henry Turley (Qld) and Thomas Givens (Qld), both expressed support for the role of the Senate. As has been noted, this was against the background of disputes between the Labor majority in the Senate and the Cook government culminating in the 1914 address to the Governor-General. There is no reason, however, to doubt the sincerity of their words. The effect which the caucus rule would have on Parliament was still emerging, and some Labor senators, such as John Grant (NSW), were strong, even extravagant, supporters of the Senate in theory if not in practice. Other senators saw the trend of the times more clearly, as instanced by Anthony St Ledger's (Qld) criticism of increasing executive domination of Parliament. This trend was in evidence even before the outbreak of war in 1914 led to governments appropriating more power than anyone ever envisaged in the Edwardian Parliament.

Another factor indirectly reinforced this tendency. The Senate came under the strong influence of senators who were primarily ministers, long-serving and able members of the executive first and foremost. The most notable example is George Pearce (WA), who is missed by this volume because of his long period of service. An even better example is Edward Millen (NSW), who was not such a staunch supporter of the Senate as Pearce, but who was an influential minister. The strong leadership roles taken by these ministers undermined Baker's vision of the Senate as primarily a legislature.

The preoccupation with the war and the split in the Labor Party over conscription, however, not only prevented the experiment in the effect of party discipline on a bicameral system, but caused a countervailing weakening of government. One direct effect of the split was the loss to the government of very capable senators, such as Edward Findley (Vic).

It is difficult to understand how either Parliament or government continued to function amidst the immense strain imposed on political loyalties and on the whole political system by the war and the conscription issue. We can only contemplate the fate of Edward Russell (Vic), who changed his views on conscription, decided to support the Hughes government in seeking to impose it, resigned from the ministry over the methods used to do so, rejoined the government, and in the end was literally driven insane by the pressure. There were

others who opposed conscription but, by supporting the Hughes government, were compelled to promote it, such as William Senior (SA) and George Henderson (WA), and their travails provide further demonstration of the extent of the rupture and the stress it imposed.

The ultimate result of the conscription issue was the absorption of the pro-conscription section of the Labor Party and the supporters of the Hughes government into the ill-united collection of conservatives which eventually went under the title of Nationalists. Socialists of the most radical type became ever more fervent supporters of the Empire and the struggle to preserve British institutions. A fitting symbol of the change was President Givens' adoption of the traditional regalia of gown, wig and lace, which had been abandoned by Turley in 1910 as contrary to Labor principles.

Because it was an ad hoc coalition, the Nationalist government had plenty of critics within its ranks. This preserved some signs of life in Parliament as an institution. The ultimate act of dissent, and the one with the greatest benevolent effect on Parliament, was the refusal in 1917 of Thomas Bakhap and John Keating (both Tas) to support Hughes' attempt to extend the life of the Parliament beyond its constitutional limits. Hughes' proposal, which involved procuring the British Parliament to use its imperial legislative power to amend the Australian Constitution, would have been enormously damaging to the independent operation of Australia's institutions, particularly if subsequent governments had followed the precedent in seeking an easy way to overcome constitutional impediments. In frustrating Hughes' plan, Bakhap and Keating gave the Senate one of its finest hours.

The third decade merits the title *The Conservative Hegemony and Empire Loyalty, 1919–1929*. The conservative parties, including those former Labor members who had supported the Hughes government on the conscription issue, predominated not only during this decade but until 1941. Their rule was only temporarily interrupted by the Scullin government which, in spite of its sweeping 1929 victory in the House of Representatives, did not extend its control to the Senate. Attention has already been drawn to the coalition character of the conservative parties and their relative lack of party discipline which, through internal dissension, prevented complete ministerial control of Parliament.

There was, however, another factor working against an effective Parliament. This was also the period when Empire nationalism and Empire loyalty reached a zenith. The bond with Britain was immensely strengthened by the common sacrifice of the war and by the dominance of conservative philosophy, which was now extremely pro-British. Australia and its system of government were viewed through British spectacles. The Parliament was regarded as essentially the same as that of Britain, and the Senate as a sort of colonial House of Lords. The British pattern was now one of executive government domination of Parliament. The prominent issues of the time, especially industrial relations, reinforced the notion of politics as a conflict between two, and only two, irreconcilable ideologies. There was occasional lip-service to the older doctrines of federalism and bicameralism, but generally speaking those doctrines were out of fashion. Baker's vision of Australian governance and of the role of the Senate in the system of government went into a long sleep until awakened by the effects of proportional representation for Senate elections in the 1950s.

Australian society was traumatised by the losses of the war, which largely explains the character of the time. The effect of the war on Parliament, apart from the reinforcement of conservatism, was more ambiguous. The destruction it wrought might be symbolised by the career of George Foster (Tas), a returned soldier obviously suffering from post-war disorientation, his service in the Senate notable only for his long absences. There are, however, plenty of contrary examples. Edmund Drake-Brockman (WA) was elected as a general returned from the war, but was very effective as a politician and also very independent-minded. There was also James Rowell (SA), a professional soldier who appeared to fit well into politics. The only senator who actually served in the war while remaining a member of the Senate, James O'Loughlin (SA), was both a soldier and a politician from his earliest career, and is also notable for his opposition to conscription.

The Presidents of the time, the long-lasting Thomas Givens (Qld) and John Newlands (SA, who is in volume 2), were generally content to follow Westminster ways and not make venturesome rulings. The few changes to Senate procedures merely reinforced the Westminster and executive hegemony.

The period was marked by an event which we now regard as of great significance: the move of the Parliament to the new capital of Canberra. The ceremonies associated with the event were designed to demonstrate that Australia was a British country and its system of government wholly British. The two Houses were addressed by the King's second son, a procedure which, as Baker might have pointed out, was not authorised by the Constitution or the standing orders. The Clerk of the Senate, according to folklore, was not allowed to read the proclamation because his accent was too Australian. The proceedings gave greater prominence to the Prime Minister than to the President or the Speaker. Apart from the symbolism of the occasion, the move appears to have had little effect on the way in which the institution operated, at least in this period.

The decade ended with the country and the Parliament on the precipice of another series of great disasters: the economic slump of 1929 leading to the Great Depression, the era of the rise of totalitarian dictatorships, political extremism and the slide into a war even more terrible than the one so recently called 'Great'. The political system and the Parliament were profoundly scarred by these events, and it is fitting that the lives of the participants be left for the next volume.

As has been suggested, the biographies may be read not only for the light they throw on the events of the times but for their illumination of the spirit of the times, of the character of the country and of its institutions.

One aspect which is immediately striking to the modern reader is the complete absence of women. The grant of the franchise to all Australian women in 1902 was not followed by an influx of women into the Parliament, and the first two did not arrive until 1943. The system was not only dominated by men but on the whole by middle-aged men. Parliamentary politics was usually the profession of maturity which followed other careers and was entered through the long practice of a trade or profession. This is in stark contrast to the modern phenomenon of professional politicians who seek election at an early age. One result was a larger number of people who would now be called single-issue members, or, more appropriately, single-industry members, who openly regarded themselves as

representing particular interests rather than as brokers between interests and practitioners of politics over the whole spectrum of society. They were, however, politicians in the broad sense, people who chose to pursue a political career and were sent into Parliament by that process of unnatural selection applied by the political machines. They were, in short, those odd people who are willing to make public affairs their own, that is, who are willing to go to meetings at nights. The exceptional non-politicians stand out, like Cyril Cameron (Tas), who was a soldier, and a senator only as a sideline.

The practice of politics by mature men had one advantage already noted: the more pluralistic nature of the membership of Parliament and the charmingly 'normal' characters to be found there, who present a contrast with the greater uniformity of subsequent eras. There was a greater diversity of views, if not of ethnic origins. They were more difficult to fit into stereotypes. We tend to think of the old Labor Party as predominantly Catholic, but the sectarian divide was largely a later phenomenon and there was nothing unusual about senators like William Maughan (Qld), who was both Anglican and a member of that party. It is difficult to imagine the Labor Party now selecting a 'military adventurist' like Andrew McKissock (Vic). There were also the interesting and influential characters whose passage through the Senate was merely incidental and of little significance in an otherwise productive career, such as Charles Mackellar (NSW) the great physician, health administrator, social reformer and philanthropist, and Henry Garling (NSW) the able all-rounder whose views on the defence of the Pacific anticipated events of twenty years later.

Indeed, pleasure may be drawn from a reading of the biographies by the discovery of views and utterances strangely modern and in advance of the time. There are Thomas Bakhap's (Tas) promotion of closer ties with the United States to safeguard the Pacific and his views on the importance of Australia's relations with Asia. It is remarkable that, in an age of widespread racial prejudice, he allowed the impression to circulate that he was part-Chinese when he was not. Anthony St Ledger's (Qld) criticisms of socialism, centralism and executive domination of Parliament could be repeated now by a modern neo-liberal without alteration. We may ask, if the times were so prejudiced, how Albert Blakey (Vic) could so stridently defend benefits for single mothers.

The reader will also find what we now regard as the darker side of the times. We may shudder at Myles Ferricks' (Qld) hysterical racist rants against Chinese, and Alexander Matheson's (WA) speech on the desirability of Aborigines dying out as soon as possible. The consolation is that such views were totally repudiated by others.

Consolation may also be drawn from the revelation that corruption amongst members of Parliament is not a new phenomenon: there were James Long's (Tas) two 'incidents' causing his departure and Benjamin Benny's (SA) conviction for fraud.

Many of the politicians of the time were born outside Australia, drawing attention to the great importance of immigration to Australian political life. We could almost say that politics was an import. It is ironic that the Labor Party, the party of Australian nationalism, relied heavily on immigrants for its membership and its organisation, some of them very recent arrivals, such as Josiah Thomas (NSW), Hugh de Largie (WA), and Edward Needham (WA). The latter arrived in the country in 1901 and was elected to the Senate only five years later.



Many of these people were highly Anglophilic, or we should say Britophilic considering the number of Scots, and their presence cemented the British connection and Empire loyalty.

The arrival in strength of the Labor Party was the most significant development affecting the character of the Parliament, forcing the fusion of the non-Labor parties and bringing to an end the founders' Senate if not the founders' Constitution. The biographies throw considerable light on that party as an institution. They bring out, for example, its reliance on the trade unions as the training ground of members after the departure of the early liberal-labour hybrids. For Labor senators, trade unionism was the route into Parliament, and there was no doubting either their working class credentials or their abilities. Their character may be exemplified by Gregor McGregor (SA), the self-educated Scottish immigrant, stonemason and builder's labourer, who became the much respected and very effective Leader of the Labor Party in the Senate from 1901 to 1914, in spite of near-blindness caused by an accident. They were graduates of a very hard school, which makes their early pluralism all the more notable.

As with all histories, the biographies also draw to our attention the things which do not change, or at least change very slowly. The debate over the appointment of Charles Mackellar (NSW) to a casual vacancy in 1903 raised the question whether such vacancies should be filled by a member of the same party as the departing senator, an issue which vexed the political scene until settled by a constitutional amendment in 1977. We also discover, for example, that Tasmanian senators have always combined to worry their colleagues about the problems of the island state, as demonstrated by senators such as David O'Keefe and Edward Mulcahy.

Biographies of the Clerks of the Senate are included. Then as now they were principal advisers to senators on the proceedings of the Senate. It is difficult to assess how influential they were because in those days they operated behind the scenes and were less exposed to public gaze than their counterparts in our era of greater interest in the inner workings of institutions. Their advice was apparently not usually given in writing or quoted and therefore has mostly not survived. That they provided an element of continuity is indicated by only four serving in this period; one lasted from 1920 to 1938 and therefore is not in this volume. The first Clerk, Edwin Blackmore, was an able and experienced man, who had been Clerk to the 1897–98 constitutional convention. He was a staunch upholder of the British parliamentary tradition, and did not have a full appreciation of the modifications to that tradition required by the Australian Constitution. It was perhaps as well that he was overshadowed by his more brilliant President, Richard Baker, who had also been his President in the South Australian Legislative Council, and who was more influential in shaping the procedures of the Senate to fit its constitutional role. The second and third Clerks, Charles Boydell and Charles Duffy, appear to have been less conservative than Blackmore, but also appear not to have disturbed the Westminster hegemony.

The biographies cover mainly the senatorial careers of their subjects, but they also provide fascinating pictures of them as real people. The admittedly brief accounts of their personal lives illuminate the salient features of people's lives in general at the time, with marriages and children providing prominent milestones. There are also the references to the many tragedies of their lives: the remarkable number of first wives who predeceased their

politician husbands; sons killed in war; bankruptcies; health breakdowns; and sudden and early deaths. We are reminded that they were indeed hard times.

This work is a contribution to the commemoration of the centenary of federation. Rather than looking at the founding and the establishment of Australia's national institutions, it looks beyond the founding to the people who operated the new institutions of the new nation. It brings out the great difficulties under which they laboured as the disastrous twentieth century unfolded. These people are themselves worthy of study, but their stories also provide clues about how Australia came to be. It is enlightening and enlivening to be put in touch with them.

