

Introduction to volume 3 Australian Senators, 1962–1983

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The era covered by this volume could be seen as a time of relative calm and stability, with a brief period of turbulence in the middle. The turbulence was occasioned by the one and only change of government during the time. Although that disturbance ended with a crisis, there were no really great crises corresponding to World Wars I and II and the Great Depression. Parliamentary developments were gradual and relatively peaceful. The Liberal and Country (later National) Party Coalition was in government for most of the time. For less than one quarter of the time there was a government party majority in the Senate, and, as it was a coalition government, which as in the past could not control all of its senators, no government controlled the Senate over the whole two decades. This fact determined the character of the era.

The proportional representation system, adopted for Senate elections in 1949, was partly responsible for this, taking its full effect on the electors' voting patterns and on the composition of the Senate. During this time it came to be regarded as normal that governments would not have party majorities in the Senate.

The Senate increasingly asserted itself as a fully empowered legislature, able to insist that the executive government account for its actions to the representatives of the public. In a series of episodes the government of the day was forced to reveal what it was doing and why, and to defend its conduct.

The most significant of the developments was the expansion of the Senate committee system, culminating in the establishment of a comprehensive set of standing committees in 1970. A major innovation of the system was the estimates hearings, whereby senators could question ministers and public servants about all and any aspects of government expenditure. Ministers and their officials had to become accustomed to being questioned by senators in public hearings about their activities. This was a process that governments had always resisted, but the dam had burst and the flood of accountability was upon them.

In relation to government expenditure, in the matter of the ordinary annual services in 1964 and 1965, a collection of government backbenchers, mindful of their prerogatives as senators, compelled the government to desist from a reorganisation of the bills that appropriate money for government departments. The change would have made it more difficult for the Senate to scrutinise proposed expenditure and to amend government financial proposals.

In the 'nexus' referendum in 1967, a collection of minor party senators and government backbenchers defeated a proposal, supported by both of the major party blocs, which would have allowed an unlimited expansion of the size of the House of Representatives at the expense of the Senate and thereby weakened the latter.

In the same year the Senate was recalled by non-government senators in the middle of the winter long adjournment to disallow some regulations of which the majority disapproved, thereby establishing the principle that the Senate determined its own sittings and could not be frustrated by government action during non-sitting periods.

In the VIP planes affair, also in 1967, the Senate compelled the Government to table documents which revealed that the Prime Minister and a minister had given false information about the use of RAAF aircraft by politicians, a minor matter in itself which became a major matter because of that government misinformation. Since that incident, orders for the production of documents have been a major weapon in the Senate's accountability armoury.

In the IPEC case in 1965, by disallowing regulations made by the Government, the Senate overthrew a major government policy of maintaining the two-airline duopoly by excluding other companies from the air freight business.

The disallowance of delegated legislation, that is, regulations and other laws made by the government under the authority of Acts of Parliament, was a significant feature of the time. If regulations were not disallowed on policy grounds they could be objected to by the Senate's very vigilant Regulations and Ordinances Committee on civil liberties grounds. The government learned that it could not bypass the Senate by putting its policies into regulations rather than in bills passed through the two houses.

In 1981 the Scrutiny of Bills Committee was established in order to bring the same scrutiny to bills as the Regulations and Ordinances Committee applied to delegated legislation, thereby reinforcing the incentive for senators to move amendments to government bills in the chamber.

At the instigation of a Senate select committee established for the purpose, in 1982, the appropriation of money for the operations of the two houses was separated from government appropriations and another new Senate committee, the Appropriations and Staffing Committee, given the task of determining the appropriations for the Senate itself. This was a major assertion by the Senate of control, or at least influence, over its own budget.

By one incident after another, the government was made to understand that it was accountable to the Senate.

The need to enforce executive accountability to Parliament was a constant theme of debates during the period. Senators of all parties pledged their allegiance to parliamentary accountability. Ministers resented it, but were dragged with varying degrees of resistance to the accountability table. The long parliamentary somnolence brought about by those past great crises, starting in the 1920s, came to an end.

Dissident government backbenchers played a major role. It has been noted that coalition governments had difficulty controlling their senators. This phenomenon was greatly in evidence during this period. Particularly on accountability issues, government backbenchers frequently voted against their own ministers in support of the Senate's right to control the executive. They also did not hesitate to 'cross the floor' on major policy issues. This dissidence was not confined to notorious Liberal rebels such as Ian Wood [Qld] and Reg Wright [Tas.] as witness Country Party senator Edmund Maher [Qld]. It was not confined to coalition senators, even with the normal iron discipline in the Labor Party: the Labor senators on the Constitutional and Legal Affairs Committee (one of the new committees established in 1971) rejected their government's national superannuation scheme in their committee report, to the great chagrin of their Prime Minister, probably reinforcing prime ministerial hatred of Senate committees.

Coalition governments became accustomed to Senate 'interference', and some coalition ministers even began to see it as the Senate performing its proper role. Not so the

Labor Government of 1972–75. When it took office, the old Labor antagonism to upper houses soon re-emerged. Although Labor senators had been as keen as any others on executive accountability when they were in opposition, in government they regarded every unfriendly Senate move as illegitimate obstruction of their democratic mandate. Two simultaneous dissolutions of both houses under section 57 of the Constitution within two years signified the turbulent relationship between the Senate majority and that government. The dissolution of 1975, forced on the Prime Minister by the Senate majority's refusal to pass the annual appropriation bills and the Governor-General's dismissal of the Prime Minister, brought the short period of crisis to an end. That the Labor Government was obstructed by the Senate majority is the usual interpretation of the crisis. A wider view of the history suggests another interpretation: that the problems were caused by the failure of the new government to deal effectively with a Senate it could not control. This was starkly demonstrated by the 'overseas loans affair' of 1975, in which the Government claimed Crown privilege and refused to answer questions in the Senate in an attempt to limit the political damage from the exposure of its attempted financial dealings. It appeared that the Government had not learned the lesson of the VIP planes affair, or, indeed, of the near-contemporaneous Watergate affair in the United States: that the cover-up creates a worse situation than the original mistake. The Coalition Government had concealed only information about who was riding on RAAF planes, not attempts to borrow hundreds of millions of dollars from dubious sources by dubious means. If a coalition government had engaged in the latter activities, the Labor Opposition would probably have adopted even more extreme counter-measures than 'refusing supply', going on their previous statements.

There was one important constitutional result of the 1975 crisis: the amendment in 1977 of section 15 of the Constitution to put an end to the complicated system for filling casual vacancies in the Senate. This change also spares the authors of entries in future volumes in this series the task of explaining the otherwise incomprehensible comings and goings of senators who filled such vacancies. In the appendices there is a separate note on the system applying under the old section 15, to assist readers to fathom some of the biographies in this and earlier volumes.

These events of significance to the development of the Parliament and the Senate need to be placed in the context of wider political developments during the time. By 1962 the Labor Party, having almost won the 1961 general election, was seen to have largely recovered from the Great Split of 1955 and to have become a credible opposition again. The 1960s can be seen as marking the inevitable drive of the party towards government, finally achieved in 1972, but ending in disaster only three years later. Communism was still an issue for the party, spilling over into foreign affairs with problems in its policies towards the Soviet Union and China, and the left/right split was still much in evidence in the party. The ideological gulf between a Bill Brown [Vic.] and a Don Willesee [WA] was wide indeed. It was partly disguised by united opposition to the Vietnam War, although that caused internal tensions as well. By the 1970s, however, the party was in better shape than that which fractured fifteen years earlier.

The coalition parties gave the impression of being in transition between the old world of Crown and Empire and the new world of an independent Australia. The attempts of modernisation may now appear somewhat feeble and half-hearted, but change was in the air.

Instability of leadership after the departure of Prime Minister Menzies in 1966 was their major problem. Their position in the Senate, however, was enhanced by exceptionally capable Liberal ministers, such as William Spooner [NSW], Shane Paltridge [WA] and Denham Henty [Tas.].

The minor parties and independents suffered most from the crisis of 1974–75 and the polarisation of the political contest between the major party blocs. The Democratic Labor Party was eliminated in the 1974 election and for a time it appeared that the country was returning to a two-party system, particularly when the coalition parties gained a majority in the Senate in the 1975 election. As noted, however, the Coalition Government of that year did not control its senators, and the old ‘rebels’ were succeeded by a robust new generation of dissidents. In the 1980 election the ‘normal’ pattern of no party holding a majority returned.

When we look at the cast of characters who populated the Senate during this time, the persistence of older generations is surprising. Several senators born in the nineteenth century were still there; one, Gordon Brown [Qld], a long-serving President of the Senate, born in 1885. There was also a great supply of war veterans with both world wars represented, including former prisoners of war. Some of them had played extremely active roles in combat, such as Justin O’Byrne [Tas.] (also President of the Senate).

There was also a great number of old-style Labor men, who came from the traditional Labor background of trade union service. They included some extremely able parliamentarians, such as Jim Cavanagh [SA]. Perhaps their equivalents in the coalition parties were the dogged representatives of rural Australia, who constantly dwelt on the importance of rural industries and promoted their interests, such as Elliot Lillico [Tas.]

There were also quite a few party machine bosses who used Senate seats as home bases for their influence in their parties. They too were often very able operators, perhaps the best example being Labor’s Jim Toohey [SA]. It is surprising to find the extent to which the parties (and the electors) tolerated ‘passengers’, those who simply occupied spaces with little or no contribution, the outstanding example being William Aylett [Tas.], who seemed to be absent from the Senate, and from his state, more often than he was present.

The era was shaped, however, by a series of highly capable parliamentarians. The long reign of Nick McKenna [Tas.] as Leader of the Opposition in the Senate set the pattern of oppositions actively participating in Senate proceedings rather than simply opposing everything put forward by government. Apart from being able and learned, McKenna was remarkable in his ability to engage in bipartisanship and multipartisanship when the occasion required.

Another dominant character was the mercurial Lionel Murphy [NSW]. Later controversies over his activities as a minister (and he was not a great success in government) and his post-parliamentary career as a High Court Justice have obscured his remarkable contributions as a parliamentarian in opposition. He believed that the Senate should be used as an instrument to impose accountability on the government, and he promoted parliamentary developments to facilitate this function, especially the expansion of the committee system. His speeches contain remarkable declarations of the right of the Senate to control the executive, and, in spite of his being on the left of the party, he was adept at cooperating with the Democratic Labor Party senators, notably in the VIP planes affair.

Murphy's difficulties after assuming executive office were slight compared with those of John Gorton [Vic.], the one and only senator raised to the prime ministership by his party. His reputation seems to have been enhanced by the handling of the VIP planes affair, but he found the highest political office and the House of Representatives a very different environment from that of the Senate, and he played a large part in his party's loss of office. He remains an enigmatic figure, and it is difficult to know what to make of him.

The politicians of the past always seem to be more entertaining than those of the present, who appear relatively colourless. We have to wait until the present has receded into the past to learn whether this is merely a temporal misperception. This volume contains its fair share of colourful characters: 'Spot' Turnbull [Tas.], who regarded his senatorial career as a sideline to his practice of medicine and his promotion of daring reforms in health policy; and Nancy Buttfield [SA], who appears wildly out of place in the coalition parties. Vince Gair [Qld] 'ratted' on his DLP colleagues by accepting an ambassadorship from the Labor Government hated by his party, but he neglected to tender his resignation from the Senate, with disastrous results for that government.

Following the breakthrough of the 1940s, there were more women senators, but surprisingly few by today's standards. The modern reader may be annoyed by the extent to which they tended to concentrate on 'women's issues', although, as Dorothy Tangney [WA], first woman in the Senate, would have said, the concerns of the disadvantaged and those of women often corresponded. It was a transitional age for feminism.

The rise of the professional politician was reinforced during this period. There appeared to be less and less space for those who came to politics from careers outside the conventional pathways: trade union politics for Labor and business and farming for the coalition parties. Roy Kendall's [Qld] amazing career and life experiences, and expertise in issues vital to the time, seemed not to assist him in politics. There were, nonetheless, some decidedly odd characters, such as Laurie Wilkinson [WA], a farmer and Quaker in the Labor Party, and John Martyr [WA], a Democratic Labor Party member recycled as a Liberal. John Wheeldon [WA] repeatedly crossed the left/right boundary on various issues, and defied classification. The conventional backgrounds also did not lead to uniform results. Having come from the traditional Labor training ground, Tony Mulvihill [NSW] championed unconventional causes, including the environment and wildlife conservation, where he was a pioneer ahead of his time. The single-issue candidate emerged with Syd Negus [WA], whose cause, abolition of estate duties, proved spectacularly successful in spite of his brief and less than glorious term of office.

An entry in this volume traces the career of the Senate's greatest Clerk, Jim Odgers [Clerks], author of the 'bible' on the Senate, now in its twelfth edition, master of constitutional and parliamentary processes, and adviser to senators of all parties on parliamentary matters great and small. The complete story of how he and his book became embroiled in the 1974–75 crisis has not previously been told.

The closing year for this volume is marked by yet another dissolution of both houses of the Parliament following a deadlock between the Coalition Government elected in 1975 and the Senate majority. It was not a genuine deadlock; the legislation in dispute, as diplomatically pointed out by the Governor-General before granting the dissolution, was old and stale and not of major significance. The real causes of the dissolution were the economic

downturn, which threatened to make matters worse for the Government the longer the election was delayed, and an impending change in the leadership of the Labor Opposition, which was also thought, as it turned out quite correctly, to seriously disadvantage the coalition. The Labor Government that came to office in 1983 was very different from that of 1972, and the era on which the Parliament then embarked was also very different, with a significantly different cast.

This volume recounts events well within the memory of many persons still living; indeed, some of the senators whose careers are here traced are still living at the time of writing. We are in the realm of contemporary history. The closer we are to a time in the past, the more difficult it is to make a lasting assessment of its real contribution to the present. It may be said with confidence, however, that many of the characteristics of the current Senate emerged during this time. It is hoped that these biographies will provide a continuing source of information and insight into those vital decades.