
Introduction

The Senate redux, 1983–2002

The *Biographical Dictionary of the Australian Senate* was conceived in the early 1990s as a Centenary of Federation project. This volume, the fourth, covers the period 1983 to 2002, and includes biographies of 108 senators and one clerk whose terms of service concluded on or before 30 June 2002. In his introduction to Volume III, spanning the period 1962–1983, the late Harry Evans noted that we had reached the realm of contemporary history with some of the senators covered in that volume still living at the time of publication. He observed, “[t]he 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”. That observation is even more pertinent to the current volume which covers some controversial figures and episodes from the recent past. Most of the senators in this volume are still living at the time of publication. It is hoped that the entries nonetheless address the period factually and dispassionately and will continue to act as a source of information and insight into these times.

The last two decades of the twentieth century and the dawn of a new millennium covered a period of great social and economic change but remarkable stability in political terms, even though no party in government during the period commanded a majority of the Senate. Despite this, for the most part governments were able to work effectively with the Senate, taking occasional losses but succeeding in achieving their major policy objectives, which included significant social, economic, environmental and technological reforms.

The period 1983 to 2002 began with a change of government. The Hawke Labor Government, elected in 1983, continued in office (under Paul Keating’s leadership from late 1991) until the election of a Coalition Government in 1996. Liberal Prime Minister, John Howard, then served till 2007, beyond the end point of this volume. He would ultimately become Australia’s second longest serving prime minister after Sir Robert Menzies, relegating Hawke to third place. In the Senate, when governments and oppositions disagreed, different combinations of minor parties and independents would provide governments of both complexions with the support necessary to enact most of their legislative measures, but often not until energetic scrutiny by the Senate and its committees had led to negotiation and compromise. The Australian Democrats flourished as a third party during the period but were in numerical decline by the end of it, their former position soon to be taken over by the Australian Greens. The rise of minor parties and independents was partly attributable to changes in the Senate voting system introduced in 1983 to address the growing rate of informal voting, although

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its fundamental roots date to the introduction of proportional representation in 1948. The introduction of “above the line” and ticket voting, together with public funding of parties and candidates, nonetheless had a significant impact on the composition of the Senate and the influence of political parties, large and small, on electoral outcomes.

In another important development, the size of the Senate was increased in 1984 to its current complement of 76 with 12 senators elected to represent each original state. It was widely thought that the election of six rather than five senators at each half-Senate election would make it more difficult for any party to gain an absolute majority in the Senate, but the Coalition parties came close in 1996 with 37 seats and would succeed in obtaining a majority of one after the 2004 election, beyond the timeframe of this volume. Together with proportional representation, these changes cemented the underlying capacity of the Senate to operate as an effective house of scrutiny, a role in which its influence expanded during the period.

The 1980s was a time of rising economic literacy as the country responded to currency and banking deregulation, and the lowering of tariffs. Superannuation became an option for most workers when, under centralised wage fixing arrangements, employer contributions to superannuation funds on behalf of workers were substituted for wage increases. Compulsory superannuation would follow in the early 1990s. During a period of economic downturn and rising interest rates, new terminology and expressions entered the lexicon courtesy of a Treasurer with a colourful turn of phrase: current account deficit, Accord, J-curve, banana republic, “recession we had to have”. As Prime Minister, Keating would subsequently earn the ire and censure of the Senate when he referred to it as “unrepresentative swill”.

National summits, including those on taxation and a national drug strategy, sought to build consensus as Australia became increasingly internationalised economically including through participation in such new international economic forums as APEC. Internationalisation also affected the black economy to which illicit narcotics imports made a significant contribution. The activities of organised crime syndicates, exposed by the Stewart and Costigan Royal Commissions, led, among other things, to the establishment of the new National Crime Authority in 1984 and the beginning of a growth industry in the creation of statutory parliamentary joint committees to oversee interjurisdictional and regulatory bodies like the National Crime Authority or the Australian Securities Commission. Migration programs expanded with bipartisan support, again with parliamentary oversight in the form of a joint standing committee on migration, and Australian society became increasing multi-cultural and urbanised. By the end of the period, the latest addition to the ranks of statutory committees established by the *Intelligence Services Act 2001*, the Parliamentary Joint Committee on Intelligence and Security, reflected the intrusion of international terrorism into the national psyche after attacks on the World Trade Centre and the Pentagon in September 2001, and the emerging challenges of cultural diversity.

Final constitutional ties with the United Kingdom were terminated by the *Australia Act 1986* which, among other things, ended the capacity of the United Kingdom Parliament to enact legislation with any effect in Australia at state, territory or federal level, and abolished appeals to the Privy Council. Despite the severing of these ties, Australians held to their traditional reluctance to amend the Constitution. A constitutional convention appointed by the Whitlam Government in 1973, and comprising delegates chosen by federal and state parliaments, continued to meet at intervals until 1985, suggesting numerous proposals for amendment of the Constitution. Between 1985 and 1988, an appointed Constitutional

Commission again reviewed possible changes. There were successes in 1977, but referenda held in 1984 and 1988 on a range of proposals, including simultaneous elections, four-year maximum terms for both Houses and the entrenchment of certain voting rights were all unsuccessful. The next constitutional convention to be held was in 1998 to consider whether Australian should become a republic and, if so, how the head of state should be chosen. Half of the delegates were appointed by the federal government and half were popularly elected in a non-compulsory ballot enabled by the *Constitutional Convention (Election) Act 1997*. The model that emerged from the convention, of a head of state appointed by the Parliament using a bi-partisan selection process, was contested by supporters of constitutional monarchy on the one hand and those advocating direct election of the head of state on the other. The ensuing referendum failed, along with a proposal to insert a new preamble into the Constitution, meaning that there were no changes to the Constitution throughout the period covered by this volume.

There had been other proposals for Senate ‘reform’ as well, reflecting the characteristic frustration of governments with a Senate they did not control and the role played by minor party senators in forcing compromise. Various changes were mooted to reduce the influence of minor parties in the Senate, from the division of states into electorates, a minimum threshold for election of senators, and joint sittings for contested legislation without an intervening double dissolution. With support for minor parties at twenty five percent and rising, none of these proposals gained traction and voters remained unmoved by calls for so-called reform.

As the scope of government and the extent of computerised transactions expanded during the period, so too did the interaction of citizens and residents with a range of government programs, raising the question of the integrity of those programs and the potential for fraud against the Commonwealth. Tax avoidance by the black economy was also an issue. One proposed answer was a national identity card to facilitate data-matching between revenue-collection agencies on the one hand and those overseeing expenditure on social services on the other. Fundamental objections to the proposal on civil liberties grounds led to the Australia Card Bill being twice rejected by the Senate and triggering the simultaneous dissolutions of 1987. Although the Hawke government was re-elected and the bill re-introduced a third time, it was laid aside when it was pointed out that the scheme relied heavily on delegated legislation for its operation, and the Senate had both the power and the inclination to disallow any regulations needed to bring it into effect.

The work of senators in committees scrutinising the bills had been central to the galvanising of opposition to them. It was therefore not entirely surprising when, after the election, the government rearranged departments of state into super-portfolios and a government caucus committee devised a system of standing committees in the House of Representatives to shadow them and meet jointly with Senate committees. The aim was that the committees would operate in future in a more benign form as joint committees, responsive to the will of the government majority in the House. A majority of the Senate had a different idea and while the new portfolio structure was adopted, the power to meet jointly with similar committees of the House was modified so that it could be exercised only with the approval of the Senate on each occasion. The Senate committee system thus continued to operate as before.

A proposal for a goods and services tax which had been considered as option “C” at the Hawke government’s tax summit in 1985, but rejected, re-emerged as part of the Opposition’s “Fightback” policy before the 1993 election which the Coalition lost. Ostensibly rejected by

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new leader John Howard, it was revived again and taken to the 1998 election as Coalition policy. Scrutiny of the GST package by Senate committees after the election was amongst the most extensive examinations ever conducted of a set of policy proposals, involving three legislative and general purpose standing committees over several months and a select committee established for the purpose. Evidence taken on the regressive impact of the tax on low income households was pivotal in convincing Brian Harradine (Ind, Tas) to withdraw his support for it. The package of bills to establish A New Tax System ultimately passed the Senate with extensive amendments after the Australian Democrats agreed to support the legislation in exchange for major concessions, including in relation to its proposed application to fresh food.

Between these two demonstrations of Senate committee effectiveness, the committee system had undergone significant transformation.

The general inquiry function had flourished with many notable successes. These included: the scrutiny of statutory authorities and public sector governance by the Standing Committee on Finance and Government Operations (later Finance and Public Administration) under successive chairs Peter Rae (Lib, Tas) and John Coates (ALP, Tas); the examination of citizenship education by the Standing Committee on Education and the Arts, chaired by Terry Aulich (ALP, Tas); and the ground-breaking inquiry into drugs in sport by the Standing Committee on Environment, Recreation and the Arts, chaired by John Black (ALP, Qld).

There was a widespread view, however, that committees could make a much greater contribution to the scrutiny of legislation, as had been envisaged by the select committee established in 1929 to examine the role of standing committees in improving the legislative work of the Senate and increasing participation by senators. That endeavour had resulted in the establishment of the Regulations and Ordinances Committee in 1932, followed half a century later by the Scrutiny of Bills Committee. Both committees scrutinised primary and secondary legislation against technical criteria relating to the protection of individual rights and liberties, and accountability to parliament. Throughout the 1980s, the value of broader policy scrutiny of legislation had been demonstrated by occasional inquiries into such proposed legislation as the National Crime Authority Bill 1983, the Australia Card Bills (1986-87) and the Privacy Amendment Bill 1989, but such referrals were ad hoc and sporadic. The picture changed after the Select Committee on Legislation Procedures reported in 1988, recommending that the Senate adopt procedures for the systematic referral of bills to legislative and general purpose standing committees. The committee included David Hamer (Lib, Vic) and Michael Macklin (AD, Qld), both of whom took a strong interest in procedural innovation and reform. Adopted in 1989, the new procedures came into effect at the beginning of 1990. By the end of the period, approximately 35 percent of all bills passed would first have been referred to a committee for examination and report under the procedures proposed by the select committee.

The systematic referral of bills to committees transformed the nature of committee work but exposed tensions between the collaborative and exploratory, longer-term inquiries producing unanimous reports and recommendations, and the potentially divisive, short and focused inquiries on bills where majority and dissenting reports reflecting differences between government and non-government parties became common. The bills inquiry workload and its reflection of government priorities also threatened to relegate the general inquiry work so valued

by senators. This, together with pressure from the Opposition for more equitable chairing arrangements, led to a review of the committee system by the Procedure Committee in 1994.

The outcome of that review was a revolution in the structure of the legislative and general purpose standing committees and the estimates committees. Functions of both sets of committees were divided between legislation committees, with government chairs, and references committees with non-government chairs. Legislation committees were responsible for inquiries into bills, the estimates hearings, review of annual reports and the performance of departments and agencies within each of eight subject areas covering the span of ministerial responsibility. The references committees, covering the same eight subject areas, stood ready to inquire into matters referred by the Senate. Each pair of committees was supported by a common secretariat. Chairs of other standing committees were also distributed between government and non-government senators. The system has since been the subject of imitation in other jurisdictions.

Undoubtedly, the most significant parliamentary development during the period was the enactment of the *Parliamentary Privileges Act 1987* which was a non-exhaustive declaration of the powers, privileges and immunities of the Houses pursuant to section 49 of the Constitution. Although a joint select committee on parliamentary privilege had laid the groundwork for the bill, the first to be introduced by a Presiding Officer, Senate President Doug McClelland (ALP, NSW), it was two controversial judgments of the NSW Supreme Court in 1986 which provided the catalyst for the legislation.

In late 1983 and early 1984, following the publication of alleged transcripts of illegal telephone intercepts carried out by members of the NSW police force, allegations emerged about High Court Justice Lionel Murphy [q.v.3 NSW] and his interactions with figures in the NSW justice system. As a potential precursor to initiation of the process under section 72 of the Constitution for the removal of the judge (the first such action under these provisions), the Senate in 1984 established the Select Committee into the Conduct of a Judge with a view to authenticating the transcripts and considering whether they disclosed any basis for further investigation of misconduct. A second select committee (chaired, like the first committee, by Michael Tate (ALP, Tas)), on allegations against a judge, examined particular allegations of misconduct and whether, if proved, they constituted “misbehaviour” within the meaning of section 72. In another first, the Senate appointed two commissioners, both retired judges, to assist the committee. The second committee reported after the 1984 sittings concluded and by the time the Senate returned in 1985 criminal proceedings had been initiated against Murphy in NSW, in the course of which two judgments had the effect of allowing witnesses to be cross examined on their evidence to the second select committee, including *in camera* evidence. The Senate was concerned that this represented an unacceptable erosion of the protection of freedom of speech in Parliament conferred by Article 9 of the Bill of Rights via section 49 of the Constitution, and acted to initiate a legislative response, principally to clarify the scope and application of the Article 9 immunity.

After the passage of the Act, the Senate also agreed to a number of resolutions about parliamentary privilege to deal with other recommendations of the joint select committee. Privilege Resolution 1, for example, set out a series of procedures binding on committees for the protection of witnesses. More contentious, however, was Privilege Resolution 5 which afforded a right of reply, to be published in *Hansard*, to any person adversely referred to in proceedings and claiming reputational injury as a result. Although some considered it to

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be a most undesirable diminution of parliamentarians' exclusive access to absolute parliamentary privilege, the Senate pioneered the concept, since widely imitated, and from 1988 it provided a simple and cost effective remedy for persons outside of parliament adversely affected by proceedings within.

The Privilege Resolutions heralded a broader review of the standing orders which had been in operation since 1903 and contained much that was obsolete, out of date or archaic. Championed by Deputy President David Hamer (Lib, Vic), the new standing orders were drafted by Harry Evans (Clerk of the Senate 1988–2009) who was renowned for his clarity of thought and expression. The accompanying restructure also made the collection much easier to use.

There were several catalysts for the revision, including certain proceedings on the Australia Card Bill, but one trigger was the move in 1988 from the provisional Parliament House to much larger premises on (and in) Capital Hill. At the time, new Parliament House was the most expensive public building ever constructed in Australia with a final cost in excess of a billion dollars, and heavily criticised as a result. In comparison with its modest predecessor its scale was vast, with office suites provided for all senators and members and grand ceremonial spaces linking four wings, one for each House, the executive government and the public access areas. An immediate consequence was the need to cover greater physical distances to the chamber, necessitating an increase in the length of time for ringing the division bells from three to four minutes. Other changes to the standing orders reflected a desire to streamline and rationalise procedures, to remove them from that mysterious realm where only clerks could decipher them, and place them firmly where they could operate as simple and effective tools to enable senators to carry out their representative, legislative and scrutiny functions.

The new standing orders operated from the first sitting day in 1990. Other changes followed, including the redesign of the committee system already referred to and an attempt to adopt so-called family-friendly hours. Late nights had long been a feature of parliamentary life given the need for many unpaid members at Westminster in the nineteenth century to have another source of income, such as practising at the bar during the day, a tradition that had been followed by the colonial assemblies and the Commonwealth Houses, even though the Constitution provided for members of parliament to be paid a salary. In the 1990–93 Parliament there were twice as many sittings after midnight as in any previous Parliament since 1901. Senators criticised the health risks and the potential compromise to the quality of their work from “legislating by exhaustion”. As a consequence, the Procedure Committee was given a reference to consider the rearrangement of the hours of meeting and routine of business to allow more time for legislation and other business while avoiding late night sittings. The resulting proposals achieved both objectives and were adopted from 1994, initially as sessional orders but on a permanent basis in 1997, albeit with the restoration of later finishes on some evenings.

Meeting in a new building, with new standing orders, more sensible hours and an increasing diversity amongst its membership, including a growing proportion of women, the Senate had modernised its operations on numerous fronts. Margaret Reid (Lib, ACT) became the first woman to be elected as Deputy President in 1995 and President in 1996. In the latter role, as the first President from the Coalition since the early 1980s, she chose not to wear the Presidential regalia and supported the clerks at the table in relinquishing their wigs and

gowns, allowing them to be perceived as professional advisers working in a contemporary environment, rather than as inhabitants of a museum.

In the new building, parliament also became more accessible through television. The chambers were equipped with broadcasting and recording facilities and an internal House Monitoring Service operated from soon after occupancy televising proceedings in the chambers and some committees to an internal audience. From 1990, the Senate authorised the television broadcasting of its proceedings, including of question time by the ABC. Committees were also empowered to authorise the broadcasting of their public hearings with estimates hearings the subject of a broader authorisation. The rebroadcasting of excerpts of proceedings was also authorised, and the House Monitoring Service became the source of a wealth of new audio-visual material for news and current affairs programs, allowing some senators to become household names. The Broadcasting Services Bill 1992 contained provisions authorising the commencement of subscription television services. Initially excised from the bill and referred to a Senate select committee for inquiry and report, the provisions would soon become law, allowing the creation of new subscription broadcasting and narrowcasting services and new demand for parliamentary content, changes that would accelerate with conversion to digital technology. The proceedings of both chambers and estimates hearings were made available initially to departmental subscribers, allowing public servants to monitor parliamentary proceedings directly. Much later, they would become freely available to all through the internet.

In the meantime, major debates became visible to a wider audience. The drama and emotion of the marathon debates on the Native Title (or “Mabo”) Bill 1993, for example, could now be glimpsed, along with the more subdued proceedings on the Native Title Amendment (or “Wik”) Bill 1997 which became law only after three attempts, both bills responding to major High Court decisions. Senators and their staff mastered highly complex and technical material on corporations law and regulation, the divestment of Commonwealth assets such as Qantas, the Commonwealth Bank and Telstra, competition policy, the regulation and sale of airports, the regulation of the aged care industry, and the reform of workplace relations laws. Intense debates on new directions in migration policy or access to social services were invariably informed by committee scrutiny of impacts. Committee inquiries also captured the range of public opinion on such difficult social and ethical issues as voluntary euthanasia, in the context of the Euthanasia Laws Bill 1997 which overrode the right of territories to legislate in this area. Important testimony before committees became a common inclusion of news and current affairs programs. In an unusual development, extracts of transcripts of the Select Committee on a Certain Maritime Incident, also referred to as the children overboard affair which occurred in the context of the 2001 general election, formed the basis of a dramatic production by an experimental theatre company.

Paradoxically, there was much about the modern Senate of the last quarter of the twentieth century to resemble the pre-World War I Senate rather than its mid-century manifestations. Just as the Senate in its first decade was conscious of its constitutional novelty and significance, the later twentieth century Senate had regained confidence in the role it played as an essential part of Australia’s constitutional arrangements. While debates over whether the Senate exceeded its role in the constitutional crisis of 1975 continued during the period, and the shadow of 1975 was an enduring influence on many of the senators in this volume, the prevailing orthodoxy was that the capacity of the Senate to act as a check on government and

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to improve legislation was fundamental to the health of the polity, particularly when party discipline meant that these functions could not be performed by the House of Representatives except in the rarest of circumstances.

For the first time since its early years, the Senate self-consciously pursued an agenda of institutional strengthening. As well as initiatives already mentioned such as the referral of bills to committees, the partial codification of parliamentary privilege, new standing orders and enhanced committee capacity, opportunities were pursued to enhance the rights of senators to hold governments to account and new procedures were developed for parliamentary scrutiny of treaties and systematic consideration of government documents, Auditor-General's reports, committee reports and government responses to them. Increased use was made of orders for the production of documents about matters of controversy and forensic inquiries by committees followed if the information provided was not considered sufficient, often involving the appearance of witnesses by order of the committee or of the Senate.

The Senate also took steps towards greater control of its own budget and resources. A Senate select committee on parliament's appropriations and staffing, chaired by Don Jessop (Lib, SA), had, in 1981, recommended a separate appropriation bill for the parliamentary departments and the establishment of a standing committee on appropriations and staffing to determine the amounts for inclusion in the bills for the department of the Senate. The committee would evolve into a significant forum for negotiations with government over adequate resources for the Senate, although resolute finance ministers such as Peter Walsh (ALP, WA) would sometimes dispute the committee's view of "adequate" and make arbitrary cuts. The committee was briefed on important structural changes to the Senate department, including the enhancement of procedural and legislative advisory support to non-government senators in the newly established Procedure Office, which occurred under the clerkship of Alan Cumming-Thom (1982-88).

From this powerful institutional base, senators from all sides of politics pursued policy agendas, legislative scrutiny and government accountability. Senators holding the balance of power were able to exercise significant influence when governments and oppositions disagreed. For much of the period, the Australian Democrats were energetic legislators, seeking better outcomes through compromise and negotiation. A new minor party appeared in the Senate in July 1990 when former Nuclear Disarmament Party and Independent senator Jo Vallentine was re-elected for the Greens WA. Further WA Green senators were followed by Greens from other states. The Australian Greens would eventually be represented in all states and would take over from the Australian Democrats as the Senate's largest minor party. Throughout the period, long-serving independent senators such as Brian Harradine (Ind, Tas) continued to exert significant influence (although his retirement in June 2005 puts him outside the scope of this volume). Others, such as George Georges (ALP/Ind, Qld), John Devereux (ALP/Ind, Tas), Janet Powell (AD/Ind, Vic), John Siddons (AD/Ind, Vic) and Malcolm Colston (ALP/Ind, Qld) continued to sit as independent senators after disagreements with, or exclusion from, their parties. The last new political party to be represented during the period was One Nation (later to be called Pauline Hanson's One Nation), with a single representative from Queensland from 1999, Len Harris (also outside the scope of this volume).

Expansion in the support available to members of parliament generally coincided with the move to larger and more elaborately equipped premises in the new Parliament House, but the capacity of senators to perform their work effectively was also enhanced by the

professionalisation of their support staff. Enactment of the *Members of Parliament (Staff) Act 1984* opened career paths for researchers and policy advisers beyond ministerial offices, as well as accommodating the more traditional stenographic support staff. Some senators in this volume, including Vicki Bourne (AD, NSW), John Black (ALP, Qld), Sid Spindler (AD, Vic), Michael Baume and Chris Puplick (both Lib, NSW) had earlier been on the staff of members of parliament. Others, such as Gareth Evans (ALP, Vic), Jim Short (Lib, Vic) and Sue West (ALP, NSW) had been ministerial staffers. Numerous senators employed and mentored staff members who would go on to be elected to state, territory or federal parliaments in the future. Another cohort of senators had worked for the administrative arms of political parties or, in the case of the ALP, with the associated union movement. These included John Carrick (Lib, NSW), Chris Schacht (ALP, SA), Graham Richardson (ALP, NSW) and Kerry Sibraa (ALP, NSW) in party administration and, in the union movement, Bruce Childs (ALP, NSW), John Morris (ALP, NSW) and Bryant Burns (ALP, Qld). On the Coalition side, some senators had previously been involved with industry bodies, such as Winston Crane (Lib, WA) in the National Farmers' Federation.

These trends would become more evident during the period and lead to claims that a political class was emerging with a narrower range of backgrounds and experience and therefore, it was claimed, less capacity to be representative of the wider population. One reason advanced was the revision of section 15 of the Constitution, approved by referendum in 1977, relating to the filling of casual vacancies which was said to encourage the appointment of more party officials to the Senate. But even a cursory reading of this volume demonstrates that any such assessment is premature. If there are fewer of the old style characters who inhabited the pages of earlier volumes, there are many senators from a variety of backgrounds who brought great credit to an increasingly professionalised role, whether they served on the front bench or as back benchers. Their stories make fascinating reading. And for the first time they include a significant number of prominent women from all sides of politics such as Pat Giles (ALP, WA), Margaret Guilfoyle (Lib, Vic), Kathy Martin (later Sullivan, Lib, Qld), Janine Haines (AD, SA), Cheryl Kernot (AD, Qld), Susan Ryan (ALP, ACT), Jocelyn Newman (Lib, Tas), Margaret Reynolds (ALP, Qld), Shirley Walters (Lib, Tas) and Olive Zakharov (ALP, Vic), to name but a few. Indeed, just under a quarter of the entries in this volume record the careers of female senators, compared with Volume III which included only six women and Volume II with just one.

At the beginning of the twenty-first century, the Senate was well-equipped to perform the functions envisaged for it by the Founders, and senators enjoyed increased resources and greatly expanded procedural options to enable them to do so. That is where we leave Australia's senators for now. The Centenary of Federation project is complete and it will be for a future generation of parliamentary officers, much assisted by the availability of digital records, to contemplate further collations and interpretations of the careers of individual senators as a contribution to the institutional history of the Senate and Australian political history in general.

■ *Rosemary Laing, Clerk of the Senate*