

# The Senate, Policy-Making and Community Consultation\*

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The debate on a goods and services tax (GST) has placed the Senate in an unfamiliar relationship with the executive. On the one hand, there are the habits and practices of governance of roughly the past eighty years. Throughout this period, the executive has enjoyed almost unchallenged power. The rituals of parliament have positioned the Opposition as an alternative government. This is implicit in the description of the system as adversarial politics. Parliament has provided the stage for this drama. It has, to use Bernard Crick's insight, provided the setting for what is in effect a continuing election campaign. As a consequence, Parliament has had virtually no substantive policy-making role.<sup>1</sup>

More recently, and notably in the GST debate, substantive parliamentary policy influence has been tentatively renewed. The Senate is the key institution. It has the necessary formal power and seems likely, for the foreseeable future, to lack a majority party.<sup>2</sup> What does this mean for the Australian political system? Does it hold in prospect destructive conflict, frustration of the electorate's will, policy gridlock,

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<sup>1</sup> Bernard Crick, *In Defence of Politics*, Penguin Books, Harmondsworth, Vic., 1964; for the three principal structures of politics in the Westminster context see Samuel H. Beer, *British Politics in the Collectivist Age*, Vintage Books, New York, 1969.

<sup>2</sup> On the Senate's formal powers and theoretical background see John Uhr, *Deliberative Democracy in Australia: the Changing Place of Parliament*, Cambridge University Press, Melbourne, 1998; and Marian Sawer, 'Dilemmas of representation', *Representation and Institutional Change: 50 Years of Proportional Representation in the Senate*, *Papers on Parliament* no. 34, December 1999, pp. 95-104.

sectional pay-offs and lowest common denominator policy compromises? Or does it offer the opportunity to strengthen the policy-making capacity of Australia's political institutions?

In what follows, a case for seeing this as an opportunity to renew necessary, but now atrophied, policy-making capacities is outlined. The argument develops through several steps. First, the central strategic, opinion framing and interest integrating contribution of party *organisations* in the classic two party system is sketched. Second, the causes of the progressive atrophy of these organisational contributions since the 1980s are explored. Third, the pluralisation of value and attitudes in the Australian community over the past twenty or so years is traced and its significance, from the perspective of interest integration and opinion framing, is evaluated. Finally, the potential to renew interest integrating and opinion framing capacities through the Senate is considered. Precedents for such a role are reviewed and some contemporary requirements explored.

### **The 'classic' two party system**

The two party system emerged in Australia roughly in 1909. Mass parties were novel political formations. Hitherto, local action committees selected candidates who stood mostly as independents. In parliament they generally aligned behind one or other of the acknowledged faction leaders—either because of shared agendas or for promised electoral pay-offs or for some combination of these factors. The parliamentary norm of independence meant allegiance could vary on particular issues. Governments thus were frequently defeated on particular measures—but they resigned office only on specific confidence votes.<sup>3</sup> The contemporary reemergence of independent MPs gestures to these older patterns.

The Labor Party was the first mass party in Australia. It emerged on the parliamentary stage in the 1891 NSW state election.<sup>4</sup> Its electoral success precipitated the progressive consolidation of non-Labor groups. At the federal level, three parties or groups shared power—the Deakinite Liberals, the Free Traders and the Labor Party. The 1901, 1903 and 1906 elections did not award a clear majority to one party. In the period before 1909, the Deakinite Liberals and the newly emerging Labor Party had overlapping agendas for social reform and governmental action. By 1909 these produced the legislation that constituted what has since become known as the Federation settlement. But the Deakinites' opposition to nationalisation and their imperial loyalties divided them from Labor and thus, in 1909, they linked with the Free Traders to constitute what has become the modern Liberal Party. This marked the emergence of the two party system.<sup>5</sup>

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<sup>3</sup> On independence in nineteenth century parliaments see P. Loveday and A.W. Martin, *Parliament, Factions and Parties, the First Thirty Years of Responsible Government in NSW*, Melbourne University Press, Carlton, Vic., 1966; on the emergence of the two party system see, P. Loveday, A.W. Martin and R.S. Parker (eds), *The Emergence of the Australian Party System*, Hale and Iremonger, Sydney, 1977.

<sup>4</sup> Bede Nairn, *Civilising Capitalism: the Beginning of the Australian Labor Party*, Melbourne University Press, Carlton, Vic., 1989.

<sup>5</sup> Ian Marsh, *Beyond the Two Party System: Political Representation, Economic Competitiveness and Australian Politics*, Cambridge University Press, Melbourne, 1995, especially Chapter 1, 'The Formation, Structure and Impact of the Two Party Regime', and Chapter 10, 'Governments and

A hegemony of only two (later three) parties was a remarkable achievement, which familiarity has since obscured.<sup>6</sup> The sources of the encompassing power of the major parties provides a perspective on current dynamics and possibilities. First, party ideologies then attracted, broadly, one or other half of Australian society. The initial fervour of activists subsequently congealed into strong party identification, in which socio-economic class and religion were also significant factors.<sup>7</sup> In the electoral arena, these loyalties were later theorised in the link between party identification and voting behaviour.<sup>8</sup>

Second, if ideologies provided the rationale for encompassing parties, the party *organisations* provided the institutional means. They provided machinery through which hitherto independent groups and activists could be integrated into political processes. In keeping with party ideologies, the Labor Party linked to the trade union movement and the non-labor parties linked to business and larger mining and rural interests. Until roughly the 1960s, the trade unions and business were the principal organised economic interests active in politics.<sup>9</sup>

Interest integration was one prime function of party organisations. Agenda setting was another. This is evident in the two great periods of strategic agenda development in Australian politics prior to the 1970s—1901 to 1909 and 1945 to 1950. The Labor Party, with its nationalisation and welfare agenda, was the primary party of change. Yet Sir Robert Menzies, in reconstituting the Liberal Party in the 1940s, renewed its Deakinite legacy in endorsing the post-war extension of the welfare state and managed economy.

Labor's internal processes were influential in determining the agenda for the parliamentary party. The structure of the party gave the trade unions special status and its national executive for many years exercised considerable influence over the parliamentary party. Resolutions of its biannual conference were binding. The Labor Party organisation provided a structure for integrating trade unions and its ideologies provided a rationale for broader community identification and mobilisation.<sup>10</sup>

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Parliament'; also Alfred Deakin, *Federated Australia, Selections from Letters to the Morning Post, 1901–1910*, Melbourne University Press, Carlton, Vic., 1968.

<sup>6</sup> 'What makes political parties so indispensable is the aggregating and representational functions that they fulfil.' Clive Bean, 'Parties and Elections', in Brian Galligan, Ian McAllister and John Ravenhill (eds), *New Directions in Australian Politics*, Macmillan Education, Melbourne, 1997, p.102; also Peter Mair, *Party System Change: Approaches and Interpretations*, Clarendon Press, Oxford, 1997.

<sup>7</sup> Ian McAllister, 'Political Parties in Australia: Party Stability in a Utilitarian Culture', a paper prepared for *Political Parties and the Millennium: Emergence, Adaptation and Decline in Democratic Societies*, Brunel University, March, 1998.

<sup>8</sup> Ian McAllister, 'Political Behaviour', in Dennis Woodward et al., *Government, Politics and Power in Australia*, 6<sup>th</sup> Edition, Longman, Melbourne, 1997, pp. 240–268.

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<sup>9</sup> L.F. Crisp, *The Australian Federal Labor Party 1901–1951*, Longman Green, Melbourne, 1955; Katherine West, *Power in the Liberal Party*, Cheshire, Melbourne, 1965. Other organised interests, such as returned servicemen, were also active in federal politics.

<sup>10</sup> Crisp, *op. cit.*; Dean Jaensch, *Power Politics: Australia's Party System*, 3<sup>rd</sup> Edition, Allen and Unwin, St Leonards, NSW, 1994.

For its part, the Liberal Party (in its various forms) was defender of the status quo and this was reflected in its organisational structure. States' rights was a powerful theme. Thus the state organisations preserved their relative strength and the national organisation <sup>lacked</sup> disciplinary powers. Business groups, the principal source of funds, were integrated directly through a federal committee and indirectly at the state level.<sup>11</sup>

Electoral dominance, organisational agenda setting roles and the integration of interest groups through party organisations was the ground for the particular division of roles between the parliament, the executive, and the bureaucracy which has since become familiar. This particular political architecture has many attractive features. From a policy-making perspective, it consolidates political power to a remarkable degree. The Cabinet, some fourteen people, constitutes the link between the bureaucratic system on one side, and the parliamentary, party and electoral arenas on the other. The parliamentary arena, where electoral considerations dominate and where the Opposition maintains significant powers to project its alternative program, is sharply separated from the arena concerned with policy-making, where the real business of government is largely conducted.<sup>12</sup>

But the 'classic' two party system rested on particular organisational and electoral foundations. Organisationally, it involved the mobilisation of activists and interest groups through party forums. Party conferences and committees allowed activists and interest groups to influence the formation of the strategic political agenda. Electorally, it was based on a broad division of the community into supporters of one or other of the major groups. The party label or brand provided a sufficient cue for the formation of opinion by most electors on most issues. This allowed strategic policy development to be (largely) internalised within the major parties and muted the need to seed the broader 'education' of public opinion.

Recent developments have undermined, if not destroyed, these foundational features of the two party system.

### **The systemic gap in interest integration and opinion framing**

Major party organisational change in the past couple of decades has basically excised interest integration. Over the same period, the capacity of party labels to cue public opinion has diminished. These developments have been caused by the coincidence of at least four factors.<sup>13</sup>

First, economic globalisation made the Federation settlement no longer viable. Manufacturing industry could no longer be developed to serve only domestic markets.

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<sup>11</sup> West, op. cit.; Jaensch, op. cit.

<sup>12</sup> Ian Marsh, 'Political learning disabilities of the two party regime', *Australian Journal of Political Science*, Special Issue, vol. 30, 1995, pp. 40–61.

<sup>13</sup> Paul Kelly, *The End of Certainty*, Allen and Unwin, Sydney, 1992; John Edwards, *Keating, the Inside Story*, Viking Books, Melbourne, 1996; Stephen Mills, *The Hawke Years: the Story from the Inside*, Viking, Melbourne, 1993; Dean Jaensch, *The Hawke–Keating Hi-Jack: the ALP in Transition*, Allen and Unwin, Sydney, 1989.

Economic globalisation, new technologies and a new role for service industries required new capacities for economic adaptation and adjustment. Needs-based, nationally determined wages were seen to introduce dysfunctional rigidities and inflexibilities. Both major parties have been obliged to progressively redefine their policy stance. This has had ideological, organisational and arguably electoral consequences. At the ideological level, differences between the major parties have progressively blurred as their approach to economic strategy has converged. After 1983, both major parties broadly adopted the neo-liberal economic agenda. Thereafter electoral considerations, not ideological dispositions, determined which parts of this agenda would be championed or resisted in public.

The jettisoning of old agendas has had different organisational consequences for the major parties. In recasting its agenda, the Labor Party parliamentary leadership has often found it expedient to bypass formal party forums. Conferences and councils have become stage managed affairs. The organisation now rarely exerts influence on policy issues. For its part, the Liberal Party has turned from being defender of the status quo to being a (the principle?) advocate of economic change.<sup>14</sup> In the process, it has largely jettisoned its Deakinite wing and thus weakened its encompassing capacities.<sup>15</sup> Perhaps the Democrats, if they have the imagination, are positioned to inherit this constituency?

Electorally, ideological convergence has arguably been one of the factors eroding the standing of the major parties. Federally, the number of electors casting a first preference vote for other than the major parties in the House of Representatives has doubled from around 10 per cent in the 1970s to around 20 per cent in 1998. Over the same period, the proportion voting for other than major parties in the Senate increased to 25 per cent in 1998.<sup>16</sup> Further evidence of the weakening role of the major parties is provided by trends in party identification, for so long the sheet anchor of the stability of the Australian political system. The number of Australians without a party identification has increased from roughly 2 per cent in 1967 to around 18 per cent in 1997. Further, the number acknowledging only weak identification has increased from 23 per cent in 1967 to around 37 per cent in 1997. Thus over half of the electorate have no or only weak identification with one or other of the major parties.<sup>17</sup> This is a particularly significant trend if party labels are relied on as a primary cue for citizen attitudes.

The second factor contributing to the excision of interest integration and the weakening of opinion framing by the major parties has been loss of their agenda setting roles. The major parties have been displaced by the social movements which

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<sup>14</sup> See, for example, the (albeit unofficial) *Commission for Audit Report*, (R. Officer, Chair), Australian Government Publishing Service, Canberra, 1996.

<sup>15</sup> Ian Ward, 'Leaders and followers: reforming the Liberal Party', *Current Affairs Bulletin*, vol. 71, no. 3, November, 1994, pp. 4–16.

<sup>16</sup> Ian Marsh, 'Political Integration and the Outlook for the Australian Party System', in P. Boreham, R. Hall and G. Stokes, (eds), *The Politics of Australian Society: Political Issues for the New Century*, Addison Wellsley Longman, Melbourne, forthcoming.

<sup>17</sup> Ian McAllister, 'Political Parties in Australia: Party Stability in a Utilitarian Culture', op. cit., p. 9.

have emerged in the post-70s period. These have become a new source of agendas and new agents for the mobilisation of activists (their emergence will be considered later in the context of the pluralisation of Australian society). The women's, environment, gay, Aboriginal, consumer, multi-cultural, so-called 'new right', and republican movements are all organised independently of the major parties. Every significant extension of the political agenda in the past decade or so has originated with one of the social movements, not the major parties.<sup>18</sup>

This development is symptomatic of a significant change in the role of major party organisations. The locus of agenda development has shifted and activists are detached from especial allegiance to one or other party. Agenda development has largely ceased to be an internal process. Party forums are not the principal arenas for activists. Internal processes have not provided the medium for testing strategic acceptability and for initiating opinion formation. The initiative has moved elsewhere. Public opinion has been framed through public campaigns by activists, and through the resultant media attention. This has been used to pressure the parliamentary leadership of the major parties to adopt new agendas. The success of these campaigns has significantly widened the national political agenda, raised the importance of public opinion formation and diminished the influence of major party organisations.

Third, the major party organisations have been unable to manage interest integration. This was partly because the general proliferation of interest groups overwhelmed older patterns. Peter Drucker has described the contemporary United States as a 'society of organisations', a description that is equally applicable to Australia. Further, established organisational linkages—the trade unions with Labor and business with the Liberals—have demonstrably weakened. Finally, a disinclination to deal with groups was reinforced in the major parties by a fashionable economic ideology, public choice theory, which cast interest groups as selfish and self-serving, and disputed their representational legitimacy. This has reinforced the disengagement of interest groups from the major parties.<sup>19</sup>

The fourth factor contributing to the loss of opinion framing and interest integrating roles by the major parties results from change to their organisational orientation and staffing. Party managers are much less likely to be organisational loyalists. They are much more likely to be professionals in public opinion polling, and marketing and advertising techniques. Direct marketing, polling and media advertising and packaging promised to make organisational policy development activities and the associated membership base dispensable. Clever marketing, focused on the parliamentary leadership, could, it was imagined, sufficiently compensate for weakened party identifications amongst electors. Indeed conferences, large memberships and internal policy development processes came to be seen as constraints on the political leadership. Liberation from them allowed the

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<sup>18</sup> Marsh, *Beyond the Two Party System*, op. cit., Chapter 3, 'Setting and Implementing the Political Agenda'.

<sup>19</sup> F. Gruen and M. Grattan, *Managing Government: Labor's Achievements and Failures*, Longman Cheshire, Melbourne, 1993; G. Singleton, *The Accord and the Australian Labor Movement*, Melbourne University Press, Carlton, Vic., 1990.

parliamentary leadership to reach out directly to electoral opinion. Sophisticated marketing techniques seemed capable of delivering the required outcomes in mass opinion formation.<sup>20</sup>

In combination, these four factors have progressively resulted in the major party organisations largely jettisoning their roles in interest integration and opinion framing. Party leaders now mostly rely on a direct reach to public opinion via elections and a direct reach to interest and cause groups. Summits express the latter strategy. Meantime there could be no stronger evidence of the strengths and weaknesses of a direct reach to public opinion than the Howard Government's approach to the GST.<sup>21</sup>

A direct reach to public opinion by the leadership of the major parties is clearly one viable approach to building public opinion. But this approach is suffused with constraints. It is extremely risky politically, as the last election demonstrated. The leadership of the rival party will almost certainly oppose what is proposed, irrespective of its own past policies (e.g. Labor on the GST in 1985). This creates a public debate in which one side declares black whatever the other asserts is white. This outcome, almost inevitable in our adversarial structure, is dysfunctional from the point of view of building electoral understanding about real choices and options. It is also dysfunctional from the perspective of mobilising supporting interest group coalitions.

Further, a proposal for a GST was first registered on the public agenda in 1974 through the Asprey Report. It was to be followed by three attempts to introduce this measure—a push by Treasurer Howard in 1981, the Tax Summit of 1985, and the Fightback campaign of 1993. The adequacy of the tax system was an issue at the 1983, 1984, 1987 and 1990 elections. It is hard to believe this protracted period of public exposure had no impact on public opinion.

But must we always wait decades to settle major issues? Must we accept the political hypocrisy that adversarial politics imposes on the major parties? Must we accept this as inevitable, part of the nature of things, and of no consequence from the perspective of public confidence in the political system? Is there no better way of introducing major strategic issues to the Australian people? Is there no better way of testing the scope for even partial bipartisanship, engaging interest groups and beginning the process of seeding public opinion?<sup>22</sup>

Think of the issues currently or potentially on the political agenda: reconfiguring the welfare system, drugs, Aboriginal reconciliation, a reorientation to Asia, euthanasia, the republic, developments in Indonesia. All of these issues raise fundamental

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<sup>20</sup> Stephen Mills, *The New Machine Men*, Penguin Books, Ringwood, Vic., 1986.

<sup>21</sup> Ian Marsh, 'The GST and the Policy Making System: Is There a Gap in Strategic Capacity? How Might it be Closed?', a paper presented at a conference on *Tax Change in Australia*, Centre for Public Policy, University of Melbourne, February, 1999.

<sup>22</sup> John Hewson, 'Yes Minister, there's no debate', *Australian Financial Review*, 26 February, 1998; John Stone, 'Some modest proposals', *Adelaide Review*, December, 1998, p. 14.

questions.<sup>23</sup> All mobilise differing interests and coalitions. All engage a cadre of immediate activists, and all are opposed by other significant sectional groups. On some of these issues the groups immediately affected have been mobilised, but the system has so far demonstrably failed to institutionalise interaction between protagonists and raise the level or quality of attention in broader community forums.

The jettisoning of interest integrating and opinion framing roles by the major parties leaves a worrying gap in policy-making capacities. This gap concerns the ability of our political system to explore contested issues in a strategic phase. A strategic phase in opinion formation and interest mobilisation is critical in constituting shared interests among citizens in particular longer term outcomes.<sup>24</sup> The political system needs a capacity to routinely engage interest group and broader opinion in a strategic, what might be termed ‘framing’, phase. This constitutes a prelude to an ‘operational phase’ when detailed distributional issues might be settled. These phases were fused in the GST deliberations.

A strategic, framing, phase in opinion formation can lay the groundwork for subsequent action in an operational phase.<sup>25</sup> This phasing of policy development is recommended in relevant scholarly literatures and routinely practiced in business and voluntary organisations and institutions throughout Australia.<sup>26</sup> And the need for strategic capacity has been significantly enhanced by the pluralisation of Australian society. Yet in the much more important political domain where our shared aspirations are articulated, common purposes constituted and common interests realised, the capacity to focus public and interest group opinion on emerging issues has substantially diminished.

### **The pluralisation of Australian society**

The proliferation of interest groups and social movements is arguably the single most significant change in the character of post-war domestic politics.<sup>27</sup> It is hard to overstate the degree to which Australia has become a group-based community. The array of organised actors on any issue is legion. These groups vary enormously in

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<sup>23</sup> On welfare systems see Gosta Esping-Anderson, *Social Foundations of Postindustrial Economies*, Oxford University Press, Oxford, 1999.

<sup>24</sup> Donald Schon and Martin Rein, *Frame Reflection: Towards the Resolution of Intractable Policy Conflicts*, Basic Books, New York, 1996.

<sup>25</sup> D. Yankelovitch, *Coming to Public Judgement*, Syracuse University Press, New York, 1992; Robert Reich, (ed.), *The Power of Public Ideas*, Harvard University Press, Cambridge, 1990.

<sup>26</sup> Dennis Turner and Michael Crawford, *Change Power*, Business and Professional Publishing, Warriewood, NSW, 1998, especially Chapter 5; Doug Stace and Dexter Dunphy, *Beyond the Boundaries, Leading and Recreating the Successful Enterprise*, McGraw Hill, Sydney, 1996, especially Chapter 5; David A. Garvin, ‘Building a learning organisation’, *Harvard Business Review*, July, 1993, pp. 78–91; Peter Senge, ‘The leaders new work: building learning organisations’, *Sloan Management Review*, Fall, 1990, pp. 7–23; John Kay, *Foundations of Corporate Success*, Oxford University Press, Oxford, 1995.

<sup>27</sup> Peter Drucker, *Post-Capitalist Society*, Harper Business, New York, 1993; S. Tarrow, *Power in Movement: Social Movements, Collective Action, and Politics*, Cambridge University Press, New York, 1994.



size, budgets, political skills, organisational sophistication and campaigning capacities. But the major groups are as effectively organised as the major political parties.

There are at least nine major movements in Australia: environment, ethnic, consumer, indigenous, women, gay, peace/third world, animal rights and the New Right or neo-liberal movement. All represent a concern at some level of generality below, or different from, that of socio-economic class, and they articulate new patterns of political differentiation. In each case the evidence of organisational capacity and political capability is clear.

In turn, these groups have stimulated imitators advocating new issues (e.g. euthanasia, legalised heroin, a republic) or defenders of traditional values (e.g. shooters party, monarchists, anti-abortion, anti-euthanasia groups). This approach to political engagement recalls patterns last seen in the nineteenth century—indeed, membership of social movements was then the standard mode of citizen political participation.<sup>28</sup> Their existence was symptomatic of the wider differentiation then evident in citizen attitudes, but in political communities where participation was more narrowly confined. With their emergence, the modern mass parties subsumed most of these organisations behind their broader agendas—or delegitimised the more narrowly focused concerns to which the movements gave expression.<sup>29</sup>

So the image of the contemporary Australian community as a kind of vast silent majority with a noisy fringe of pressure groups is fundamentally wrong. Talk of a ‘new class’ as some alien sectional minority subverting the public interest in favour of selfish and unrepresentative concerns is fundamentally wrong. And the idea that Australian society has been taken over by a ‘politically correct’ discourse to the exclusion of a majoritarian but muted voice also is fundamentally wrong.

Images of a silent majority, of ‘political correctness’ and of a new class may all be useful rhetorical ploys in the political game. But as pictures of social reality, they do not square with the facts. The pluralisation of Australian society is the fundamental fact—and the proliferation of interest groups and issue movements is its organisational expression. Unless political leaders can persuade the community to jettison some of its varied aspirations, a new level of pluralisation is here to stay.

The space between the major parties and the community is now filled with political organisations with political capacity and media skills. These organisations have a demonstrated capacity to shape opinion on particular issues. The capacity to mobilise opinion, or at least salient chunks of opinion, is the currency of political influence. Opinion influence can take many forms. Think for example of the annual Sydney Gay and Lesbian Mardi Gras or of talkback radio or of suitably crafted media events

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<sup>28</sup> Examples of social movements in the nineteenth-century include the Suffragette, Temperance, Single Tax, Anti-Slavery, 8 Hour Day, and Anti-Corn Law League.

<sup>29</sup> V. Burgman, *In Our Time, Socialism and the Rise of Labour, 1885–1905*, Allen and Unwin, Sydney, 1985.

(business tax campaign, the tent embassy, anti-logging campaigns).<sup>30</sup> The impact on public opinion of the parties, groups and movements creates the contested purposes that constitute the public conversation—the political dialectic—of contemporary Australian society. A reframing of the political agenda coupled with the proliferation of interest groups has transfigured the opinion forming task.

The neo-liberal economic strategy, more or less adopted by both major parties after 1983, required a reduction of the role of the state and a diminished scope for politics. While a new tacit economic consensus between the major parties has emerged, the extent to which the state might have a role in fostering a new Australian industrial structure remains in dispute. However there is no evidence that the overall neo-liberal economic agenda has contracted.

Environmental concerns, indigenous rights, the new role for women, and new protections for consumers are now all government responsibilities. This expanded agenda spawns new issues as developments in one area have consequences in others. Think, for example, of the emergence of biotechnology. Policy trade-offs are now more complex. Protagonists need to share perspectives. The grounds for supporting or opposing particular developments amongst relevant interests can be fluid. Dialogue, deliberation and interaction are all required in settings where benefits and costs can be clarified, issues redefined in more encompassing terms, and compensation strategies explored. This is the problem with summits. They can be effective as the capstone of a more embedded process, but otherwise they are too short for the necessary development of views.

In a more complex world, new issues such as the emergence of euthanasia, drugs and the republic attest to widened citizen expectations for politics. Externally, our political environment remains uncertain and our regional linkage requires a fundamental development of public attitudes and orientations. Thus the need for capacities to frame and develop public and interest group opinion has actually increased. This is the context in which the role of the Senate deserves fresh appraisal.

### **The Senate and community representation**

The Senate was constituted as a ‘strong’ House by the founding fathers of Australian Federation. As is well known, the immediate stimulus was fear by the small states of domination by their larger cousins.<sup>31</sup> But more deeply, this particular constitution of power has deep roots in liberal traditions—majorities should rule but not heedless of collective minorities. Protections for minorities need to be entrenched in the structure of power.<sup>32</sup> The principal collective minorities at the time of Federation were the

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<sup>30</sup> Larry Galbraith and Ian Marsh, ‘The political impact of the Sydney Gay and Lesbian Mardi Gras’, *Australian Journal of Political Science*, vol. 30, no. 2, 1995, pp. 300–320.

<sup>31</sup> Brian Galligan, *A Federal Republic: Australia’s Constitutional System of Government*, Cambridge University Press, Melbourne, 1994; Helen Irving, *To Constitute a Nation*, Cambridge University Press, Melbourne, 1997; J.A. LaNauze, *The Making of the Australian Constitution*, Melbourne University Press, Carlton, Vic., 1972; Alfred Deakin, *The Federal Story*, Robertson and Mullens, Melbourne, 1944.

<sup>32</sup> Uhr, *op. cit.*; Campbell Sharman, ‘The Senate and good government’, *Papers on Parliament* no. 33, May 1999, pp. 153–170; Geoffrey Brennan, ‘The unrepresentative swill feel their oats’, *Policy*, Summer, 1998–99, pp. 3–9. On earlier uses of Senate power see L. Young, ‘A disproportionate amount

states. State identification remained strong. Inter-colonial ambitions and anxieties remained significant.

State identity continues to be a potent force in Australian politics. But it has been joined by cross-cutting sources of sectional or minority identity. Think of the unions, small business, or the women's, gay, aboriginal, multicultural, or republican movements. These and many other organisations are the sites through which, and from which, the opinions, aspirations and interests of a newly diversified and pluralised Australian community are refracted and framed.

Australia's founders created, and intended to create, a distinctive constitutional structure, looking to Britain for ways to institutionalise 'strong' government and to the United States for ways to institutionalise collective minority rights. Strong government was necessary to realise aspirations for nation-building and equality of opportunity between citizens from vastly different initial conditions. Collective minority rights were essential as protection against illiberal majorities. This resulted in our distinctive constitutional settlement made up of two virtually co-equal federal Houses.<sup>33</sup> One might speculate that this arrangement institutionalises exactly the aspiration for collective fairness which is such a rich element in Australia's political culture.<sup>34</sup>

The potential of the Senate as a forum for minority representation was displayed in the first ten years after Federation. In this more pluralised world, no party enjoyed an absolute majority in either chamber. The main parties, Alfred Deakin's Protectionists, George Reid's Free Traders and the newly formed Labor Party, needed to reach accommodations with each other to form governments and to pass legislation. In three elections, the public awarded a clear majority to no single group. In addition, the norm of freedom of conscience for individual members of parliament was then dominant, at least on the non-Labor side. So governments could not automatically rely on the votes of their supporters on contentious issues.

A variety of hotly contested strategic issues needed to be resolved in setting the economic and social foundations of the Australian Federation. Tariffs and wages were the most divisive issues, but others such as old age pensions, nationalisation, the construction of national railways, and the establishment and role of the Post Office, were also prominent. Joint or Senate select committees were established to investigate each of these issues, to establish the options for handling them and to build awareness amongst key constituencies.<sup>35</sup> Findings were debated in both Houses. Since the

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of power? Influence of minor parties in the 1993 budget process', *Legislative Studies*, vol. 13, no. 1, Spring, 1998, pp 1–17.

<sup>33</sup> Richard Mulgan, 'The Australian Senate as a house of review', *Australian Journal of Political Science*, vol. 31, no. 2, 1996, pp. 191–205.

<sup>34</sup> For an American contrast see Louis Hartz, *The Liberal Tradition in America: an Interpretation of American Political Thought Since the Revolution*, Harecourt, Brace and World, New York, 1955; on the United Kingdom see W.H. Greenleaf, *The British Political Tradition*, Methuen, London, 1983.

<sup>35</sup> Marsh, *Beyond the Two Party System*, op. cit., pp. 294–297.

government could not be assured of a majority, debate on particular issues was decisive.

The Senate used its powers regularly against governments in the first ten years.<sup>36</sup> The Senate functioned not as the poodle of the major parties, which was the role it mostly adopted up until the loss of a government majority in 1981. Then it functioned as the house of review it was intended to be. It used its committees to gather information and to build opinion amongst senators.

The Senate's committee system became the key institutional mechanism for investigating strategic issues. There were frequent disagreements between the Houses, particularly on tariff issues. Disputes between the chambers were fierce, but accommodations were ultimately reached. Indeed, these cameo dramas became an occasion for public learning. Contention was sited not in party conferences or in internal party committee processes. It was based in parliamentary committees and in debates within and between the Houses. The political drama constituted the *mise en scene* in which the educative role of political investigation and deliberation was more fully realised.

Indeed committees are the only mechanism available to express the investigative capacities of parliamentary institutions and they provide essential foundations for parliamentary deliberations.<sup>37</sup> They are the only mechanism through which the scope for even partial bipartisanship between the major parties might be explored.<sup>38</sup> In the more confined, but more plural, political world of nineteenth century Britain, and in the more democratic Australian colonies before the genesis of mass politics, legislatures and their committees were a primary means for investigating contested issues. In the process, the development of member, stakeholder and perhaps broader community views was seeded.<sup>39</sup> The legislature and its committees have always

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<sup>36</sup> Surveyed in Geoffrey Sawer, *Australian Federal Politics and Law, 1901–1929*, Melbourne University Press, Carlton, Vic., 1972.

<sup>37</sup> Writing in *The English Constitution* in 1867, Walter Bagehot identified a number of functions for the House of Commons that extended well beyond 'watching and checking ministers of the Crown.' These included 'expressive', 'teaching', 'informing', and 'elective' functions.

<sup>38</sup> The power of bipartisanship was clearly displayed in the 1980s. Floating the exchange rate, financial deregulation and the reduction of protection all attracted bipartisan support. By contrast party u-turns under electoral and/or interest group pressure are evident on the GST and Telstra privatisation.

<sup>39</sup> 'After 1820 ... Select Committees were used with a regularity and purpose quite without precedent. It is difficult to overestimate the importance of this development. Through session after session, through hundreds of inquiries and the examination of many thousands of witnesses a vast mass of information and statistics was being assembled. Even where (as was uncommonly the case) the official inquiry was in the hands of unscrupulous partisans, a sort of informal adversary system usually led to the enlargement of true knowledge in the end. A session or two later the counter-partisans would secure a counter exposition of their own. All this enabled the administration to act with a confidence, a perspective and a breadth of vision which had never hitherto existed. It had also a profound secular effect on public opinion generally and upon parliamentary public opinion in particular. For the exposure of the actual state of things in particular fields was in the long run probably the most fruitful source of reform in nineteenth century England.' Oliver MacDonagh, *Early Victorian Government, 1830–1870*, Holmes and Meir, New York, 1977, p. 6.

contributed to interest group integration and to community education in the very different political system of the United States.<sup>40</sup>

Building a consensus about strategic issues, about the options for handling them, and building public understanding of the benefits and costs of alternative courses of action, and perhaps about how winners can compensate losers, are all the challenges we face anew in becoming a flexible and adaptable community. The GST debate points to the means for renewing interest integrating and opinion-framing capacities in a strategic phase—that is, through the Senate and its committees. It illustrates the capacity of parliamentary structures to mobilise expert, bureaucratic and interest group opinion, to attract publicity, and perhaps to contribute to the formation of a majority coalition for action. In the classic two party system, these roles were mostly located in the major party organisations.

The GST debate emerged at the, so-to-speak, operational end of the policy development process. It illustrates a mechanism whose role could be routine at the strategic end of this process. This would require a significant enhancement of the Senate committee system and a more focused appreciation of its potential contribution. I have explored these issues in detail elsewhere.<sup>41</sup> The structure of committees needs strengthening and they would need to intervene routinely in the policy development cycle within departments. Staff support for committees needs significant strengthening. The capacity of committees to challenge the executive may need to be refurbished. Clashes between the Senate and the executive at appropriate moments in the policy development process, far from occasioning hand-wringing, might be welcomed for their contribution to the broader development of opinion throughout the Australian community.

Of course, the risks in such developments also must be acknowledged. The combination of a strong executive and minority rights imposes distinctive behavioural norms on participants. Above all, protagonists would need to be willing to compromise, and to display qualities of moderation in the parliament or its backrooms that they might not choose to display to their more ardent supporters. But such are the familiar ways of democratic politics.<sup>42</sup> In the mutation envisaged here, the major parties might even occasionally combine to discredit unpalatable opinions or to make public the bipartisanship on broad strategy that is now mostly tacit.

Protagonists for majoritarian, winner-take-all conceptions of government now, as in the past, see only instability in the further development of the Senate's role.<sup>43</sup> On the

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<sup>40</sup> Arthur Maas, *Congress and the Common Good*, Basic Books, New York, 1983.

<sup>41</sup> Ian Marsh, 'Parliament and Policy-Making' in *Beyond the Two Party System*, op. cit., Chapter 9.

<sup>42</sup> An example is the procedural norms in the US Congress.

<sup>43</sup> *Weekend Australian*, editorial, 'Undue power shows Senate reform needed', 28 November, 1998; *Sydney Morning Herald*, editorial, 'The Senate needs to be reformed', 8 February, 1999; *Herald-Sun*, editorial, 'The tyranny of minorities', 25 November, 1998; Helen Coonan, 'The Senate: safeguard or handbrake on democracy?' *Address to the Sydney Institute*, February, 1999. For an overview see Hugh Emy, 'The mandate and responsible government', *Australian Journal of Political Science*, vol. 32, no. 1, 1997, pp. 65–78.

contrary, I believe underlying electoral trends may progressively precipitate a significant mutation in our familiar two party system. The Senate, armed with a clear sense of its potential policy-making contribution and with appropriate capacities, is the principal potential agent of regime change in Australia. The minor Senate parties have most to gain immediately by a change in the structure of policy making.<sup>44</sup> But the major parties too may ultimately come to see gains in a structure that holds in prospect improved opportunities for all participants to advance their policy agendas.

Australia has a strong tradition of fairness along with a rough-and-tumble political style. As we adapt to the changed world economy and to our own changing aspirations as a people, the need to change the structure of politics may be increasingly forced upon us. These things do not happen easily or quickly—many societies require revolution and insurrection to achieve new distributions of political power. Yet in the twenty years from 1890 to 1910 the new Australian union was successfully crafted and a compact that provided the framework for its economic and social development in the subsequent eighty years was constructed.

Are we in such a phase once more? Trends in voting and weakening party identification affirm the possibility.<sup>45</sup> There are at least three more federal elections between now and 2010. By 2010 I think we will be well on the road to a more open and transparent political and policy-making system. There will doubtless be much turbulence, uncertainty and perhaps instability in the process—the two party system is too deeply embedded in our habits and routines, and too many able people have a stake in its preservation, for change to be simple or easy. Nor should it be. These are basic issues touching the kind of people we are and might aspire to be. I think we will ultimately be best served by a mutation of the two party system and the emergence of a more plural alternative. Liberal democracy, not economic rationalism, is after all the crowning ideal of our time.



**Question** — Is the GST fair, when someone earning \$100,000 or more will get a reduction of \$85.77 per week, but someone with \$10,000 will get \$5.34? Regarding pensioners, they will be given a 4 per cent increase in the pension, and then taxed at 10 per cent, which is \$38.14. This is not fair. The current government will be the first in history to tax pensioners, if the Senate votes for it. Also, how will the GST stop the tax avoidance schemes and stop profits made by multinationals from going overseas. I believe the GST will do nothing to prevent this. Also, despite the elimination of the wholesale tax, the 10 per cent GST will go up and so will the cost of living.

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<sup>44</sup> Ian Marsh, 'Liberal priorities, the Lib-Lab pact and the requirements for policy influence', *Parliamentary Affairs*, vol. 43, no. 2, July 1990.

<sup>45</sup> The development of multi-party politics in New Zealand, devolution to Scotland and Wales and possibly the English regions, the possibility of an MMP voting system in the UK, and the possibility of constitutional change in Canada all point to regime movement in the countries closest to Australia in political culture and institutions.

**Ian Marsh** — One of the great privileges of being a political scientist involved in institutions is that I can't parade any expertise on the precise conclusions of my economist colleagues. We are immensely enriched by having a huge volume report currently before a Senate committee that I think addresses all the issues that you raised and that represents detailed calculations on issues of fairness. We are seeing a process that is actually working through how it will be defined from a public policy perspective, and that is going to resolve the issue that you put before us. I think we must wait and see how that comes through the system.

**Question** — Surely the problem for interest groups having a say in the formation of parliamentary decisions is that they only know that an issue is on the table after it has passed through a binding parliamentary caucus. So in many ways the deliberations of a Senate committee come at the wrong end of the process, because by the time an issue gets to a committee and people present evidence, the discussion and the binding decision have already been made in the caucus room. If you were talking about reform to include more community participation and more perspectives being presented, how would you see these fitting into the binding caucus structure, which is obviously the major difference?

**Ian Marsh** — My language must have been too abstract; all those words about 'framing' and 'strategic' were about creating a role for committees at that agenda entry end of the process. Furthermore, all the references to the 1901–1909 period were about the legislature in conflict, moving the locus of squabbles out of the caucus and out of the party rooms and on to the floor of Parliament and on to the relations between the Houses. So you are really looking, in a more plural system, at the dynamics of all those activities shifting into other arenas. There's a perfect illustration of it—you can see how it would all work—if you look at the Hansard record for the 1901–1909 period. So in our history there is available, on the record, examples of how this process would work. But it would shift all those dynamics you are talking about. Many of the things that are now behind closed doors would move into a more public domain, with all the benefits that I tried to identify.

**Question** — A year or so ago Phillip Adams was interviewing Ian Sinclair on *Late Night Live* about the outcome of the Constitutional Convention, and they were commenting on how successful that had been, both in the processes and the quality of debate. One of the difficulties raised by Ian Sinclair—in response to a suggestion by Phillip Adams that our Parliament should operate in a similar fashion—was that governments bring their ideas forward to the Parliament in the House of Representatives in the form of fully drafted bills, and governments therefore find it hard to have the humility to back away from the fully worded and drafted proposals. They could perhaps come forward with an agenda or a set of ideas in general form, and debate those, and then go away and prepare their bills in the light of comments and discussion. You propose that the Senate be the focus for this activity, but could we avoid some of the problems generated in the House by having the House take a different approach to the way in which it deliberates ideas?

**Ian Marsh** — I got involved in these activities many years ago for my doctorate when I was looking at the new committee system Mrs Thatcher established in the House of Commons in 1979. One of the striking features of the committees that were set up in that House was the way in which they came to mirror the kind of policy

development process in departments, so that the typical committee each year would have a couple of inquiries on an emergent issue, which would give the committee the kind of information base to lock into the policy cycle in which ministers had been the exclusive political actors. In that way, committees can buy themselves into the agenda entry and the emergent phases of the policy process. Of course, the Commons committees in the workings of adversarial politics were totally impotent and the late Stuart Walklend, a very distinguished British political scientist, described them as a kind of new House-of-Commons-in-waiting.

When you come to Australia, the evidence suggests that there will still be two major parties, and we still need a House to allow majoritarian action, and to allow governments to play out their role. The Commons has over 600 members; our House of Representatives has only 148 members. In terms of the number of people in the House of Representatives, and the dynamics that are necessary to sustain Government and Opposition relations and to constitute an executive, I just don't see that chamber being an effective vehicle for the more plural and more strategic processes that we need to add to our political system. But we have the Senate, which is (a) elected on a difference base, so its composition is somewhat different from the House, and it more truly reflects the community; and (b) has quite distinct and separate powers. So our founders, with the wisdom of prescience, have endowed us with the basic institutional arrangement that would allow us perfectly to move into a more plural world, if that is how the electorate continues to push the system.

**Question** — You've touched on the importance of the electoral system to the way the Senate operates. Given that, do you think there could be an opportunity to advance the policy-making process either by skewing the numbers from the states—so, for example, there are twenty senators from NSW and five from Tasmania—or getting rid of state representation altogether? Half the Senate could be elected from right across Australia given the irrelevance of the Senate as a states' House.

**Ian Marsh** — I think it's better to see the Senate as a House of minorities. States were the minorities at the time the system was conceived, and now there are many more cross-cutting minorities, but state identity remains a very significant factor in this country.

There have been a lot of lectures—and I've stopped going to them now—where people talk about a referendum to abolish the states, and a referendum to change this and that. I just don't see that you'd get it through our system. If someone is willing to put in the time and energy and a charismatic figure who can galvanise the country into seeing that there is some desirability in shedding a state identity and moving to some different structure, full marks. While it could happen, it's just very hard to see how on the evidence of public opinion and public attitudes.

Of course, the major parties could gang up and change the voting system for the Senate, and that would be another way of altering the game. It's a perfectly feasible strategy, and has happened in Tasmania. Senator Faulkner is on the public record saying he will never do this, but of course there are a lot of people on the public record saying they will never do things. I do think that ultimately it is a step that might come back to bite the major parties.



If I am right in putting to you that the pluralisation of Australian society is a fundamental fact, then we will only put that genie back in the bottle at the cost of delegitimising the system. If the major parties try to squeeze out, or put into private forums, or try to internalise the complexity and diversity of our society—in other words, if they don't allow representation to occur—then it will lead to the electors losing confidence in the system. It will produce more One Nations and events of that kind. So I can understand the strategy for changing the Senate voting system and I can understand how these developments might make life uncomfortable for ministers—the gods of the present system—but any effort to try and contain them would simply undermine the legitimacy of the whole system.

**Question** — Do you think that your vision for an enhanced role for committees would be better served by removing the executive from the Senate, i.e. no ministers, no question time, no Opposition, no Government, just senators?

**Ian Marsh** — David Hamer had a suggestion along those lines many years ago, and I have a speech of his in the bottom of a file somewhere that talks about that. I am not sufficiently familiar with the constitutional arrangements to know how that could work or would work. The Senate is still not a big House to constitute an array of committees that could mirror the constitution of Cabinet, and there's a lot to be said for liberating the sort of talent that is now absorbed into the spokesperson and ministerial positions into committee chair roles. But I have not thought my way through the issues clearly enough to say whether it is feasible or not.

**Question** — Regarding the role of the media and their relations with committees, there has been criticism from members and senators from time to time that they often already do a lot of the issues-based work, but the media chooses to report only those controversial issues, like the GST, when in fact there are other committees that do a lot of work. Would you like to comment on that?

**Ian Marsh** — That's again why it's so instructive to look at the 1901–1909 period. The media has a sure instinct for power. Politics, at one level, is about a structure of power. Why have question time? It's a charade, a ritual. Why is question time such an attractive gladiatorial struggle every day? Because the rival leadership teams, one or other of whom will hold the real strings of power in the country, are on display every single day. And as we see with the GST inquiry, there is now a real game going on between the Senate and the House and between the Government and the Senate, and it is of interest to the media. As we see in the 1901–1909 period, when the Senate really was willing to use its power against the Lower House when controversy was on, the media naturally honed in on what was happening. I have no doubt that in a reconfigured system, where the flow of power is organised differently, there would be attendant publicity. But the media recognise quite rightly at the moment the irrelevancy of many of the rituals that go off on the side. I think if the structure of power moves, public attention will also move.

**Question** — You mentioned in your remarks that there was probably a need for staff support for committees to be strengthened, and I was wondering if you'd care to elaborate on that?

**Ian Marsh** — One doesn't want to go to the extent of the US Congress, although I just point to the US Congress as an extreme of what you need. To come closer to home, the House of Commons' select committee staffs are about fourteen-strong. Our committee staffs are about one or two people, by and large.

It seems to me crazy; if an organisation like EPAC (it's now dispensed with) is going to perform any kind of bridging, mediating, intersecting role, it's crazy to do it within the executive—it ought to be doing it within the structures of Parliament. Once you do it within the executive, as soon as you let out information that's going to be ammunition for the Opposition, you're creating all the incentives in the world for the Government to squeeze you in or close you down. Whereas the Parliament's interest is quite different.

Of course, the bureaucracy is full of immensely able people. Just look at the GST debate—look at the arguments about modelling, or Warren and Harding versus the Treasury. The Treasury is an immensely able institution. If you're going to, as we need to, make much more transparent the kinds of deliberations that inform policy-making, then you have to make sure that alternative points of view, alternative expertise, and other legitimate perspectives are brought on to the stage. You can't do that with a one-and-a-half-person staff committee; there's just no way in the world. Committees, in some sense, will be dependent on the capacity of their staffs to arm their abilities, and we've got to achieve that.

In the House of Commons, where the committees are in exile, so to speak, you've still got about sixteen qualified people serving each of the major committees. I should also add that one of the remarkable absences in our Parliament is a Treasury committee. The most important committee in the British structure is the Treasury Committee, which calls the Governor of the Bank of England, the Secretary of the Treasury, and routinely takes evidence on the state of the economy. It's extraordinary that we don't have an equivalent of a Treasury committee in this country, although we have started, to some extent.

**Question** — I welcome your comments regarding the Senate and its potential role. I underline your comments regarding the intellectual activity that seems to have ended in 1901. We hope that it comes back. I was bit appalled by your easy way of handling the House of Representatives by saying that because the government has the power there won't be any discussion. I think there can be more discussion. I know that in a number of European, and I think the American, parliaments, parliamentarians accept a deduction of their salary to pay for a very powerful office which attracts a lot of young lawyers and economists from the universities. This office assists everybody whether in the Government party or the Opposition party, to draft legislation, to engender discussion, with a consequence that a private member's bill has a far greater chance of getting support in public because it is funded by this particular office. I knew a young lawyer in America who was involved in such an organisation, and he happened to be a German, so they bring in the intellectual elite from all over the world.

**Ian Marsh** — I must correct the first point. I didn't want to suggest that all intellectual life was drained from our system in 1909. Rather I wanted to suggest that it moved into the back rooms and ceased to be as prominently on the public stage.

Of course, the deal in most European Parliaments is very different because they are operating with different kinds of political systems. Many of the European systems are much more multi-party than our own political system, and the dynamics and possibilities are different in those environments. I don't know whether people noticed the other day a photo in the *Herald* of the new Reichstag in Germany. If you look at the layout of the seats in that chamber, it was a semi-circle in front of the speaker's chair—a completely different seating arrangement, expressing a completely different character of the nature of the way the institution frames political interaction.

If we change the voting system in this country for the House of Representatives and therefore turn it into a more plural House, all the possibilities of the sort that you suggested could come to pass. But again, it's one of those things that is possible, but I just don't see it as something that's on the practical horizon within the foreseeable future. I think the Lower House will remain an adversarial house and I think there are probably quite good reasons why that might be so, and therefore I see the Senate as the focus for this kind of activity. But again, if someone can persuade the major parties to change the Lower House voting system, to make it more of a multi-party house—fantastic. If we go New Zealand's route, so be it, and then of course that would come to pass.

**Question** — I share your optimism about the true constitutional role of the Senate in the legislative process, but are we not being a bit optimistic in claiming to see it in evidence now in the tax debate, where the Opposition appears to be opposing and refusing to propose amendments, and all amending is being done by a senator with 24,000 votes out of an electorate of 11 million?

**Ian Marsh** — Well, (a) I might be completely wrong; and (b) if I'm half right or three-quarters right we are in a sort of transition phase and you're going to see all kinds of weird things happening in that kind of period. The Opposition is naturally and rightly still wholly adversarial. The norms of adversarial politics totally write its scripts, and you wouldn't expect it to be otherwise. And if it wasn't Brian Harradine it would be the Democrats after 30 June, which has got a different constituency, but I think they would be playing the same sort of game. Well, they'd be playing a slightly different game—the bells and whistles would be different—but it would be in the same general direction. So these things always will happen. There could always be in a more plural world one person holding the balance of power. There is no perfection on this earth. We're going to have aberrations and absurdities, and people will make wrong decisions, and people will throw up their hands in despair at various times if we move into a different arrangement; it's just the way of the world. Politics is a reflection of our imperfection, and I don't expect it to be otherwise. So I'm not surprised that a single man from a state holds the balance of power. This is just the way our world works and it is inevitable in a period of transition. Maybe it will be the same if we do transit to wherever it is that we're transiting to. That's the system, that's the world.

**Question** — If you browse Hansard for say the first decade of the Commonwealth of Australia, and of the thirties and of the nineties, you cannot escape the conclusion that the nature of debate in both Houses has changed. To what extent, in your opinion, is this due to the introduction of broadcasting, and secondly, the introduction of

television? Or is it generational in our politicians, or is it generational in us? Also, you seem to be suggesting that we would get better acts if they were in some way drafted in the House. My comment is that our present Constitution was drafted, my understanding is, by three men on a yacht.

**Ian Marsh** — On the influence on why parliamentary debate is better, worse or indifferent, I really don't have a strong view. As you would expect me to argue, given the kind of analysis I've tried to present, the primary difference in periods of debate is in pre-1909 and post-1909, and I would see adversarial politics, the two party system, as the primary re-shaper of the character of the political debate. I've read some Senate transcripts. Some of the unnoticed debates around this place can occur at a reasonably elevated level for at least some of the time. I'm not too concerned. In a more open political environment, I do believe the quality of deliberation would rise to some degree.

As to where legislation is written, again I wasn't trying to suggest that legislation ought to be written in the House. It could be written in either chamber. I was simply suggesting that there is a very important role for committees of the Parliament at a pre-legislative stage, at an agenda entry stage, at the strategic phase of the process, which is before we decide to have legislation, but when we are trying to decide whether something ought to be recognised in the system and how the issue should be defined. These are both very important steps in the process of beginning a public conversation about the need for legislation.

**Question** — Would you agree that, to a very large extent, the uselessness of the House of Representatives has come about primarily because the Labor Party has always insisted on absolute unity within caucus. If you are a member of the Labor Party in the House, you may dislike certain aspects, but once caucus has decided, that's it. Consequently, because of that situation, the same thing came to happen with the other side, and that's why it's all froth and bubble and hot air essentially, in both Houses, but less so in the Senate.

**Ian Marsh** — One of Deakin's three big reasons for not merging with Labor (because the Deakinites and Labor both voted together quite a lot in the 1901–1909 period) was exactly that issue, that freedom of conscience was such a potent symbolic and practical thing. But I don't think it is the only reason for the froth and bubble of the lower House. And I actually don't think it's all froth and bubble, in the sense that whatever world we live in we will still need executive teams, and the job of being prime minister and minister is immensely demanding. I don't think there's any job outside Parliament that calls for the qualities of physical stamina, much less intellectual agility and being smart on your feet, like the job of prime minister or a senior minister. The lower House, if it serves no other purpose, is an immensely important testing ground, to see who is going to be able to actually get up there every day, no matter how well they slept or what time they went to bed, and to handle a question with intelligence and some apparent command of the facts.

When I was very young and first worked at Parliament House, I can remember the minister I worked for would leave the old Parliament House at 3.00 am and come back at 8.30 am and begin the day again. I would come in, I was twenty-two I think, totally ragged, feeling like death warmed up, and this guy would just begin his day as

though he had had a sound night's sleep. Those kinds of qualities are absolutely essential in our leadership and we need a chamber that has the capacity to really test people at those levels. I think the House of Representatives chamber does that, as well as exposing the two major alternative governments. In the world that I'm talking about, you would never go into the Senate if your ambition was to govern the country. You still need an executive, you still need to concentrate power and you still need that power to be challenged by an Opposition. And the House of Representatives, I think, does and would do a very good job of that very important task.

**Question** — While you have given a very factual summary, maybe you underestimate the importance of the individual, and this is one of the reasons why Pauline Hanson is going to upset a fine leader like Timothy Fischer and why Senator Brown and Senator Harradine are so critical at the present juncture. If you're going to reform the tax system, what are you going to do about tax evasion, what are you going to do about helping the people down at the bottom? Neither party has control of that, and the criticism is coming from individuals outside of it. Do you think there is a bigger role for the individual? Santamaria was never in Parliament, both Menzies and Evatt doted on him until the split came in the Labor Party and then they ignored him. Those personalities are known in Canberra from one decade to another, but they are not figuring publicly in the analytic discourse of the universities.

**Ian Marsh** — I agree with that, although in the hearings before the various inquiries, my impressionistic judgement is that they have been very successful in engaging and drawing in many perspectives and individuals from society into the process.

On the first point you make on evasion and its role in the tax system and the impact on pensions, we haven't seen whether the Government's going to get a GST out of this exercise. It is still not clear. Presumably, issues of the kind you have raised will weigh with our representatives who are charged with taking it forward. All the commentary tells us that Senator Harradine is going to make concessions on certain points and we will get a deal, but let's wait until it all happens, and see what the Democrats do. That is our political system at work.

I was listening to the debates in my car, driving around Sydney the last few days, and the kinds of issues you raise are the kinds of issues that senators have been speaking about on the floor of the House. We pay them money to balance these very large and complicated questions, and let's wait and see how they come out. It could still be that the issues you have raised will tip the scales. I don't know. I think they have been well recognised and that is one of the very important tasks you ask of a public political process, that issues that are legitimately concerning people, issues that are legitimately entitled to a standing in the process of deliberation, get ventilated and get their due weight. We may not all agree, and we won't always all agree, of course, on whether they have been weighed properly, but that they have been ventilated, that they have been recognised in the process of coming to a judgement is a very important part of our broader sense of the fairness of the system. I think that is what we are seeing work through at the moment.