

THE SENATE: TERMS OF OFFICE, VOTING, AND “REFORM”

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Women Into Politics has been advocating a large increase in the numbers of women in Australian parliaments since 1992, when our non-party political coalition of women's organisations was formed. In the Women Into Politics publication *A Women's Charter for Political Reform 2001: a Charter for Political Equality for Women and for Good Government for All Australian Citizens*, it is suggested that political parties should be penalised if they do not pre-select equal numbers of women as candidates for winnable seats. Since our first publication, called *Coming to the Party?*, we have called on the major political parties to restructure themselves so that preselection processes would be open and democratic. One party (the ALP) is currently making moves to change itself, to be more relevant to the electorate, but time will tell whether this will be a major restructure, a whitewash, or something in between.

At paragraph 1.3 of the Charter, there is a call for Cabinets and Shadow Cabinets to be comprised of approximately 50% male and 50% female persons as a matter of equity. If women were 50% of ministers, it might then be that women's representatives would gain more power and have more influence. Over the last decade or more, the numbers of women in the Senate have grown, and more lately declined, and the ALP has only one or two women Senators left at present. With the tribal loyalty required by the major party leaders these days, there is a great deal of difference between being there, as a member of the House, or the Senate, or even of the Cabinet, and having the power to influence policy and decision-making.

THE SENATE

In a small article in the *Sydney Morning Herald* last week (6 June, 2002), about a public servant who was angry at being asked for information by a Senate Committee, columnist Mike Secombe referred to the Government's "track record of trying either to co-opt or nobble any independent institution, be it the courts, the bureaucracy, the military or the media." Secombe wrote as follows (and I quote):

The real action these days is in the Senate estimates committees, because that's where ministers and their senior bureaucrats are actually required to provide information. But yesterday we saw the first signs [that] the Government is starting to close that avenue. (end quote)

Secombe goes on to say in his article, that the bureaucrat resented answering the questions put to him by the Senate committee. The columnist wrote (quote):

And, courtesy of [Dr Peter] Shergold's cost-counting, the Government yesterday began campaigning against the expense of answering estimates' questions. Shergold reckoned that since 1986, \$3 million had been spent paying bureaucrats to answer [Senator] Carr's questions.

Carr reckoned Shergold was one of the most politicised of [the Prime Minister's] senior bureaucrats What matters is that the best remaining avenue of government accountability is under threat.

So here we have an informed opinion that the Senate's ability to seek information from the Government is being threatened. (You and I would have no hope of gaining precise information of course!) I have no way of knowing whether or not it was a reasonable figure for the bureaucrat to claim, whether it cost \$3 million over the last 16 years to answer detailed questions. Perhaps that is the reasonable cost of proper record keeping and the development of statistical and research data in the Department of Education, Science and Training. Women certainly have called for databases and more data collection in these and other areas for some years.

The Senate, with its proportional representation, its committee systems, its operation as a House of review and its ability to require accountability, has developed into the more open and democratic of the two Houses of the Commonwealth Parliament. In recent years, with the rise and rise of presidential executive government through the House of Representatives, the systems of the Senate as a House of review have in fact become crucial to our democracy. Any changes to the Senate or its powers therefore need to be thought through very carefully if they are not to disadvantage women and democracy.

The *Women's Charter for Political Reform 2001* that I referred to earlier strongly advocates the continuation of the proportional representation voting system for the Senate, since women in various countries, including Australia, have historically gained better representation at elections where a proportional representation system is used. Marian Sawer has published her research in this field. We must keep up the vigilance to preserve the proportional representation electoral system for the Senate, although the design of the voting paper does need to be changed (of which more presently). The Charter also advocates the introduction of proportional representation for Houses where it does not exist, such as the House of Representatives, or alternatively for the House of Representatives, a multi-member electoral system, so that the parliament may more accurately reflect the male/female composition of the population and the wishes of voters.

In an interesting paper on proportional representation, Harry Evans discusses *Accountability Versus Government Control* (Papers on Parliament No 34). Evans calls proportional representation a "legislative safeguard," and an "antidote" to the undesirable effects of the total power conferred by complete control of the legislature. The undesirable effects include denial and suppression of accountability. Evans says Governments have to be forced to be accountable and compelled to explain themselves. Senate accountability measures would be universally accepted as meritorious, Evans suggests.

TERMS OF OFFICE

In recent months, there has been some public discussion about the attitudes of the major political parties to a change to four-year terms of office for members of the House of Representatives, as an alternative to the three-year terms that now exist. Currently, Senate elections are held simultaneously with House of Reps elections, but only half the senators come up for election each three years, which means that individual senators are in office for about six years before facing another election. (This can be less when governments call elections some months early, as they can and do under the present flexible arrangements for governments to call elections.) A change to four-year terms for the Representatives would have an impact on the terms of office for the Senate, and this has as yet been given scant study.

Changes to the Electoral Act are done by parliamentary legislation. Some other changes, such as a change to the nexus between numbers of members of the two Houses (the Reps has about double the numbers of the Senate), or a change to the rotating membership of senators, might require a constitutional change. For a proposed change to the Constitution to be successful at a referendum of the people, it is necessary for the measure to receive a “yes” vote from, first, an overall majority of all Australian voters, and then in addition it must be carried by a majority in at least four out of the six states. This is a difficult hurdle, and to have a chance of success in a referendum it is accepted wisdom that a measure needs to have the bipartisan support of the major political parties. So discussion, negotiation and agreement between the major parties is very important to putting any question to the people successfully at a referendum. Of course we in the electorate have always been cautious, and we need to be, for the parties could agree to pull the wool over the eyes of the voters to their own political advantage!

MANIPULATION OF DATES WITH FLEXIBLE TERMS

On the issue of the proposal for four-year terms, there seems at present to be some agreement among the Coalition parties and the ALP. However, perhaps a bigger issue than whether we have three- or four-year terms is whether the parliamentary term is fixed or not. In New South Wales, we have for some years had a system of fixed four-year terms for the Lower House, so every four years on a date in late March there is a state election. This has worked well, and everyone works towards this date, but it can allow a parliament to do some actual planning, consultation and thoughtful legislation before moving into election mode in the final twelve months.

The flexibility for a government to decide to call an election on a date that suits itself results in constant manipulation by governments of the timing of legislation, issues and events that might set up a favourable time for the government to call an election, and as we all know, this pre-election mode can go on for long periods and impede good government.

FIXED TERMS: If we can agree that fixed terms are preferable for good government, then we can return to the question of whether three- or four-year terms are preferable for the House of Reps. A fixed term would in my view be a great improvement on the flexible three-year term, and a fixed four-year term might be best. The fixed term might stop a lot of the “spin-doctoring” that has been a constant feature of executive government behaviour in recent years, or at least restrict it to known pre-election times, and more responsible government might result.

EFFECT ON SENATE TERMS: As indicated above, terms of office for senators are currently twice as long as those for members of the House of Reps. If this pattern were preserved, the terms of senators would become eight years if the Reps had four-year terms. Most electors would, I think, agree that eight years seems altogether too long before the senators must present themselves to the electorate again. There seems to be an assumption at the moment that the choice is between eight-year Senate terms and terms of four years parallel with the House of Reps terms.

SIX-YEAR SENATE TERMS: It is possible that six-year terms for the Senate could remain, along with four-year fixed terms for the Reps. As a simple timeline shows, if we

had a Repts term of four years and a Senate term of six years, with the Senate elected as a whole each time, then every second Representatives election would have a Senate election concurrently with it.

Over a period of fifty years there would be four Senate elections that did not coincide with a Representatives election (one every twelve years), hardly an expensive option for a better democracy. Other ways of maintaining a six-year Senate term with inclusion of half-Senate elections could be developed.

Four-year Senate terms might have advantages for democracy and for representation by smaller parties: It would reduce the quota (percentage of votes) necessary for election to the Senate. and the large parties are unlikely to favour this, but the large parties also know that a senator could be very remote from the community after eight years and seriously out of touch. When the electorate votes for independents and smaller parties, who would benefit from a smaller quota requirement, it is because people want to elect them and believes it has the right to do so, not because of some glitch in the system!

POWER OF THE SENATE

In a recent article, Hugh Mackay (SMH 27/28 April 02) suggests that "the vast number of electors who vote one way for the Repts and another way for the Senate are actually thinking about what they are doing . . . Qualitative research into voters' attitudes reveals strong support for the idea of a Senate making life difficult for governments by refusing to be a rubber stamp for their legislative program."

There seems to be a legitimate role for the electors to use their votes to create this power for the Senate as a House of review. The proportional voting system used for Senate elections must also be preserved, as this is one means by which the numbers of women elected to the Senate have been increased. When the major parties do not include women near the top of their Senate tickets, as sometimes happens, their women will not get a quota of course. (The formula for a Senate quota is to divide the total number of formal votes by a figure that is one more than the number of candidates to be elected. So for the election of six senators, the divisor will be seven, and a successful candidate will have received one seventh of all the formal votes for the Senate in the state. Any votes surplus to the quota are passed on to the candidate of next preference.)

The development over recent decades of the Senate committee system has assisted the Senate to analyse issues and act responsibly in dealing with difficult issues. The estimates committees, said to be now under threat, are a part of this system. Senate inquiries and committees are where women have had success in making submissions and approaching senators in efforts to bring women's needs and views to the notice of the parliament. Minor parties in particular seem to react more thoughtfully to women's representations, and women need them there with a voice in the parliament. We should therefore regard any ideas put forward by the major parties for the "reform" of the Senate with some suspicion, as they might just be trying to reduce the power of minor parties in the Senate.

With the system now marginalising so many groups, especially in the women's movement, it is now very difficult for people with a view, including the half of the population who are women, to have their voices heard - unless they belong to a favoured "interest group" with personal ties to individuals at the top of the power tree. The current operations of the Senate are therefore very important to women.

In a suggestion for reform put forward by a Liberal Party fundraising person, it was claimed that a "hostile" Senate could be tamed by introducing a legislative "reform" to enable a "joint sitting" of both Houses of Parliament, where the government of the day would of course be able to outvote the Senate's position on an issue because of its greater numbers in the House of Reps. This is certainly an idea to reduce the power of the Senate. It is not in the interests of women, who seek to increase their ability to be heard, through representation, committee work, consultation and debate. Suggestions for "reform" of the Senate that might tend to undermine its power will need to be fully studied so that their implications may be understood before any changes are rushed in.

SENATE VOTING PAPER UNDEMOCRATIC

The voting paper for the Senate election seems to be misunderstood, even by some politicians who have said that the electors will act on their own preferences! This is precisely what the current voting paper does not permit! The voting paper is actually very undemocratic, and it is time that everyone understood that.

The fact is that voting "above the line" by marking one single party (the maximum permitted) is a compulsory vote for the other parties in the order of preference that the party you marked on the paper has mandated. Voters who mark a party above the line thereby hand over the rest of their vote to the one party they are permitted to mark on the voting paper.

The obviously more democratic alternative to this would be to present also a list of all the parties "under the line," so that voters could indeed number them according to their own preferences. A third option could be to vote for selected individual candidates listed under their party's names, with the requirement to vote for six or more candidates (i.e. the number of senators to be elected or more).

But no, with the current tricky voting system, voters cannot vote for parties in the order of their own preferences. The only alternative to marking one party to take over your vote "above the line" is to mark each and every candidate individually on the ballot paper "under the line," including all the fringe group hopefuls, until you have marked every candidate.

That might mean numbering 80 or more individuals, and note that your vote is made invalid by a small error such as using the same figure twice or omitting one figure. Being faced with this complex task on a miserable bit of paper in a school hall on a minuscule bench is an affront to the electorate, and unfair in itself. (A user-friendly computerised system that came up with messages such as "you have already used the number 73" would at least make this current system fairer, but it is far too undemocratic to remain in use.)

The ability of the political party strategists to promote and retain such an undemocratic procedure is, frankly, frightening. It has been said that this voting paper design was agreed by the major parties in full knowledge of the implications that I have just pointed out, no doubt because it favours the major parties at the expense of smaller parties and independents. Fortunately, voters have still managed to have a voice.

With the ascendancy of presidential executive government, where even backbenchers are not often consulted, it is ever more necessary to have the Senate's balance of power restraint, so that issues might reach the public domain before legislation is enacted. So,

in order to make the Senate election process more democratic, the voting-above-the-line part of the ballot paper needs to be balanced by political party candidate lists to enable voting below the line for selected parties or candidates without the requirement to exhaust all candidates.

Finally, a brief word about the lack of media coverage of women's political interests, voting power and trends. So that women might not have to depend on what are necessarily irregular academic statistics and political analysis, much as we value them, we have a great need for a woman journalist who is a psephologist, a specialist with a passion for following the statistics and ongoing knowledge of how politics works for women. I have a dream that such a person will be employed by a major Australian newspaper, so that instead of women's political position being mainly ignored in the media, the relevant counting will be done, and the issues and figures that affect women will come into the public domain.

The main issues in this debate for women and good governance are as follows:

1. Insist that any constitutional change to terms of office include introduction of fixed terms for the Representatives, whether for three or four years
 2. Avoid and oppose "reforms" that would reduce the power of the Senate. Maintain proportional representation in the Senate
 3. Avoid and oppose eight-year terms of office for the Senate, and investigate the possibilities and impact for both four-and six-year Senate terms
 4. Change the design of the Senate voting paper to balance the voting-above-the-line part of the ballot paper, with political party candidate lists below the line that enable either voting below the line for parties in the order selected by voters, or voting for at least six individual candidates without the requirement to exhaust all candidates.
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