

WORKING TITLE: Senate is a policy brake not a block

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Imagine if there was no senate to block Gough Whitlam's reform agenda. Malcolm Fraser would have had no reason to approach the Governor General, there would have been no dismissal, and the ALP could have pressed ahead with the policies for which they claimed a 'mandate'.

In business and media circles the idea that the senate in general, and crossbenchers in particular, create 'chaos' and make governing 'impossible' has become widely acceptable. Business, we are told, needs certainty. While that's understandable, history, and our constitution, suggest that not only will never get it, but they wouldn't like it if they did.

It is easy to see why supporters of the Abbott government's plan to cut taxes for the wealthy and cut spending on the needy wish the senate get out of the way. It must be frustrating to see such a windfall refusing to fall. Of course our Constitution was designed with such frustration in mind.

But the next time there is an ALP government those same voices crying 'mandate' in support of Tony Abbott's agenda will likely be urging crossbench senators to 'act responsibly' and stymie the next governments agenda on the basis that it is 'irresponsible'. And the business community accuse government of short sightedness.

For 27 of the past 30 years the commonwealth government of the day has lacked a majority in the senate. Additionally, no state government currently holds a majority in its upper and lower house.

In our recent book 'minority policy' Dr Brenton Prosser and I place recent instances of 'minority government' into context. John Howard's did deals with The Democrats on GST, and the ALP's Mal Colston to sell Telstra. And of course Joh Bjelke-Peterson caused the 'chaos' of the Whitlam senate by refusing to appoint an ALP nominee to the casual senate vacancy caused by the death of Queensland Labor Senator Bert Milliner.

What's happening in the senate at the moment isn't unusual. It's the norm.

Much of the narrative about the senate causing 'chaos' stems from the fact that debate about how policy should be made has departed so far from reality. Academic talk of an orderly, evidence-based

'policy cycle' and media commentators demands for Prime Ministers to exhibit decisiveness and implement simple policies with 'cut through' messages - both ignore the Constitutional necessity for new laws to pass through two Houses of Parliament.

While Prime ministers of the past were frequently frustrated by the Senate, Kevin Rudd and Tony Abbott appear to be the first to completely forget it was there. Nick Xenophon once observed that Kevin Rudd had plenty of time to meet pop stars but none to meet with the cross bench.

Tony Abbott's declaration before the last election that would 'never do a deal with a minor party' was the high water mark in the battle between the polling version of politics and the parliamentary version. But while polling can help you win elections, the constitution always gets the final word on legislation.

Like it or not, our constitution doesn't facilitate the election of a supreme leader (or 'Captain') who, for three years, makes all the big decisions. While much is made of the increasingly 'Presidential' style of modern Australian election campaigns, a strong focus on the personality traits of party leaders might maximise votes but it increasingly diminishes their ability to negotiate the passage of legislation.

Parliamentary democracy was explicitly designed to diffuse power and ensure that proposed legislative changes were widely supported. When those who drew up our constitution threw in an upper house, elected in a different way, with the power to block legislation - they knew what they were doing. They wanted a parliament that would hasten slowly. They wanted a conservative institution that was slow to respond to popular opinion.

The senate has slowed down, and stymied, the agendas of Prime Ministers of all stripes. Good policy, and good politics, require patient negotiation not threats and tantrums. Squealing from some in the business community that our constitution makes us ungovernable and causes chaos is as ill-informed and short sighted as they accuse our politicians of being. After the next election they may well be clinging to senate obstructionism as tightly as they are currently clinging to the ill-defined notion of prime ministerial mandates.

Economist Richard Denniss is executive director of The Australia Institute.