

# The Role of the Senate in Our Democracy

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**Ebony Bennett** 0:02 Good day everyone. My name is Ebony Bennett. I'm Deputy Director at the Australia Institute and welcome to our webinar series. I can see virtually at least all our attendees coming through the door. Thank you so much for joining us today. We really appreciate you coming along. Before we begin, I'd like to acknowledge that I live and work on Ngunnawal Country and pay my respects to the traditional owners and elders past and present. Sovereignty was never ceded, and this always was and always will be Aboriginal land. The same as last year, we are at the Australia Institute aiming to do these webinars at least weekly. But sometimes we have more than one a week and days and times do vary. So you can head on over to our website at [australiainstitute.org.au/events](https://australiainstitute.org.au/events), so you don't miss out on anything. And just a few tips before we begin to help this run smoothly. I'm sure you're all hold hands at Zoom by now. But if you aren't, if you hover over the bottom over your Zoom screen, you should be able to see a Q&A function where you can type in questions for our panellists and you should also be able to upvote questions and make comments on other people's questions as well. Please keep things civil and on topic in the chat. Otherwise, we'll boot you out. We rarely have to do it. But we will if we have to. And for people who find the chat distracting, you can either click it open and then minimise it as a separate box and that should hopefully be less annoying. And lastly, a reminder that this discussion is being recorded, and it will be posted up on our website and emailed to everyone after this discussion, and will also be available on the Australia Institute's YouTube channel. So today we're talking to Senate President and Liberal Senator for Victoria, Scott Ryan, about the role of the Senate in our democracy. And the Australia Institute has some new research out today, which shows the role and the powers of the Senate are sometimes quite poorly understood by many Australians. So I'll hand over now to the Executive Director of the Australia Institute, Ben Oquist, to introduce the Senate President. Thanks, Ben.

**Ben Oquist** 2:10 Thanks Ebony and thanks for hosting us today, and for all the webinars you've run for the Australia Institute today. I know there's a big army of fans of yours out there. And thank you, thanks for today. But thanks for

a terrific series through the pandemic, and now coming out of it. It's been a great new institution and initiative of the Australia Institute that's helping engage a whole new army of people in our big social and economic and political debates. But it needs someone to guide them and encourage them and involve them in a thoroughly professional and entertaining and uplifting way. So thanks Ebony for everything and thanks for having us today of course. It's my great privilege to introduce our star guest today, President of the Senate, Scott Ryan. Scott was elected to the Senate in 2007 as a Liberal senator for Victoria. He served as a Minister, Special Minister of State but he became President - and that's the role in which we've got him on today - of the Senate in 2017, becoming the youngest ever President of the Senate. I think becoming the first to step down from the Ministry to become Senate President. And it'd be fair to say that Senator Ryan, the President of the Senate is a champion of the Senate, its role, its function, what it gives to democracy. Here at the Australia Institute, we're big defenders of the role and the power of the Senate, and are often frustrated by its under reporting, and the lack of understanding of its role and the functions it serves in our democracy. So we're really pleased to have Senate President Scott Ryan. We've been a big fan of what he's been saying and writing about the Senate as a staunch defender of it, and a promoter of it and maybe we'll come to our research through the discussion. So with that in mind, that I'm going to throw it open to Scott to tell us what he thinks of the Senate. And to put it simply, why it's good.

**Scott Ryan** 4:27 Well, thanks Ben. Thanks for inviting me to be here today to talk about this interesting research and the role the Senate and thanks Ebony for hosting. This report provides an interesting snapshot that we don't always get into the public awareness of the status, powers and functions of the Senate. But at the outset, I want to highlight a few elements that are important context for any consideration of the role of the Senate in Australia's democracy. It's not widely understood that the Australian Senate is unique amongst the upper houses or the second chambers of comparable nations and particularly Westminster-style parliamentary democracies. It is not a hereditary upper chamber like the House of Lords, or an appointed Upper House, such as in the case of Canada, or one elected on a restricted franchise, as some of our state upper houses were for many years. All of those lack the direct democratic legitimacy and mandate that the Australian Senate has, because it is elected and always has been on exactly the same franchise, ie the eligibility to vote, as the House of Representatives. It has equal legislative authority, except for a restriction on initiating or amending money bills or bills imposing taxation, but it has the ability to deny their passage, to say no, and to effectively insist on amendments being made. Consequently, most other upper houses around the world lack the constitutional

power and authority of the Senate. Over time, they have become effectively advisory chambers that can merely suggest changes or delay the implementation of a government agenda, unlike our Senate, whose consent is always necessary for any legislative measure. Yet, despite all of this being in place in 1901, when Australia came together to form the Commonwealth, many of these powers remained dormant prior to two changes that were implemented decades later. The first was in 1949 and it was a simple electoral change. The Senate moved from becoming a majoritarian winner-take-all electoral system to one of proportional representation, which has, with some changes, effectively remained in place since 1949. The direct consequence of this is that, particularly in recent decades, governments generally do not have a majority in the Senate, as they usually do in the House of Representatives. Second, in June 1970, the modern Senate Committee system was established. This saw the commencement of Estimates hearings, that we have multiple times a year, allowing senators to question ministers and officials for hours on end; a much more extensive system of Senate inquiries and issues of concern to members of the community and to senators; and a comprehensive system of committee review of proposed legislation that came from the government of the day. The defining feature of Australian politics is that while the formation of government remains strictly a matter of the House of Representatives, the implementation of a government's legislative agenda, even measures announced in an election campaign or an annual budget, are contested in the Senate. They are not merely a matter for determination and implementation by a government of the day. The second point I want to make in this introduction before we have a longer discussion is specifically about this report, which I found particularly interesting, and making a valuable contribution, as it both outlines what people know about the Senate, and to me at least indicates an instinct that is supportive of the role of the Senate. Just under 60% of people surveyed understand the Senate can pass or reject legislation that passes the lower house. And two thirds understand that the support of non-government parties is required to pass legislation. Even if specific details about the electoral arrangements for the Senate, the current status or numbers in the senate are not as well understood. The instinct for the work of the Senate to me was best expressed by the fact that while only a third of people surveyed thought it best at the government of the day didn't have a Senate Majority, only a third specifically thought that would be better if the Senate if the government did have a majority in the Senate. I can't help but think this reflects broad major party voting sentiments. And the reference that is included later in the report that I broadly concur with, to John Faulkner, reflecting on both sides of politics that support for the Senate is strongest in opposition and weakest when in government. Attempts to nobble the Senate are as old as the Constitution itself. For decades, the Labor Party sought its abolition or at the very least, limitation of its

powers so that its consent for legislation was not always necessary either generally, or specifically in relation to financial matters. And in the last two decades, the Senate has been the subject of proposals that in my view would effectively limit its power influence from its traditional dependence on my side of politics. But as any proposal would require a referendum, the chances of passage and effectively granting more power to the government of the day, in my view, are remote. This report outlines however that, while the instinct is there for the work of the Senate, as with what we would so broadly describe as the Civics generally, we always have room to improve the level of general understanding of how institutions work. Our system of government through the House of Representatives provides for specific geographic representation and the general formation of stable government, while the Senate ensures the voices of others are heard in the implementation of any government's agenda. To me, this combination represents the best of both worlds, avoiding the lack of democratic legitimacy I find within proportional electoral systems for the formation of government, but ensuring that there are limits on the majoritarianism that is more common in single member electorate democracies, such as the House of Representatives or the House of Commons. And sure we can discuss these and other related matters further. But I'd like to congratulate Bill and Ben for putting this report together to help increase understanding of not only what is critical to our parliamentary system, but also something that is unique to Australia. Thanks, Ben.

**Ebony Bennett** Thank you. Yeah, Ben's got a copy of the report there and I think Hayden  
**10:23** has posted a link in the chat to where you can find it on the Australia Institute website. But Ben, I might come back to you there. What were some of the things that stood out to you from this report about what people don't know or don't understand about the Senate? Because, as Scott Ryan has said just there, you know, it does have that unique ability to block or amend legislation, to inquire into things that perhaps the government of the day doesn't necessarily want inquired into? Was there anything that shocked you in the results?

**Ben Oquist** Yes. Thanks. And I'll start by saying I think it's the first report, which  
**11:01** looks at a number of things, including these community attitudes and knowledge about the Senate, it's the first real big deep-dive into community attitudes that we've been able to find on the Senate. And I guess it's a good news / bad news story this report, which is the good news is that the Senate is powerful. And through that power, just described by Scott Ryan, is doing a number of good things for our democracy, providing accountability, but also diversity through that proportional representation structure, in particular, the Senate, increasing the diversity in representation in our politics. And that's a really important thing, when at a time globally, notwithstanding some

slight differences during the pandemic, there's been a loss of trust in and faith in our politics and that's leading to a loss of faith and trust in democracies here and around the world. And the Senate does provide that diversity that sometimes can help lift people's engagement and potentially, trust in politics. For example, the Senate is made up of 50% men and 50% women at the moment, where you look at the House of Representatives and it's only 30%. So that's, that, in itself tells you something really important about the Senate, and especially right now to think that here is a chamber that's ahead of the curve, that has got to 50% representation. And I do think that's partly as a result of that proportional representation system that the Senator has just talked about. But you're right Eb, there's a lot in this report, that's kind of dispiriting about people's knowledge about the Senate. So that's the good news story part that I just outlined. The bad news story, is that a very small number of people know, for example, that Question Time can be held, is held in the Senate, as well as the House of Representatives. A very small number of people even know that Ministers can come from the Senate, as just outlined with Scott Ryan's history. And of course, he was, his engagement with politics has been through the Senate, but he was a Minister. So people don't even know that Senators get the same amount of pay as members in the House of Representatives. So there is a lack of knowledge about the Senate and a lot people don't even know that the government, when the government has a majority or not. So I guess the report, in many ways, is a call to arms, for our political class, our media, our educators to attempt to increase that, that knowledge and understanding of the Senate for a number of reasons. Scott's just outlined the unique powers of the Australian Senate and how powerful it is. And I think that's served our democracy and our politics well. I think it has prevented some bad reforms happening. I think it's kept some good bits of legislation in place in the past. But I think it's also strengthened our democracy overall and people's civic engagement in politics. But the report really is a call to arms that we need to do a lot better in helping the community understand the roles, responsibilities and the function of the Senate, for its own sake, but also to help fix politics, because after all, politics can and should be a good thing. And the Senate can really be a way into improving our politics and making people feel more engaged in it.

**Ebony Bennett** 14:54 Yeah, I might pick up on two of those ideas. Scott Ryan, can I ask you about firstly, the accountability kind of mechanisms that the Senate provides and then we might go later to Ben's point about diversity. But first of all, how does the Senate play that accountability role? And what are some of its powers that perhaps aren't as well understood? I'm thinking perhaps here of the orders for the production of documents, Estimates, those types of mechanisms, and why are they important?

**Scott Ryan** 15:26 So in broad terms, thanks Ebony, the Senate has the same powers as the House of Representatives over the members of the Senate. So when I was a minister, I would represent ministers who weren't members of the Senate in the portfolios they held in the House of Representatives, and the Senate could seek to direct me to produce documents on their behalf. It had more effective power over me as a Senate minister, because it can ask me to effectively get documents from another minister, but it can't demand a member of the House of Representatives or enforce a demand against the member of the House of Representatives in the same way. What I will say though, is that the Senate's power to demand documents with notable exclusions, such as you know, top secret documents or security reasons or cabinet documents, can bring political attention to a particular issue. And one of the key accountability measures of the Senate is being able to bring attention to a particular measure. Because when the Senate is investigating something, or asking questions about something, or holding a Committee hearing into a particular issue, whether that be about government administration, or whether that be about an emerging issue the government might not be dealing with, then we do find that you have a place for stakeholders and experts and people with an interest to come forward and present their views. And that gets attention through groups such as yourselves, through other think tanks, through the media. So it does increase the level of public awareness. And it provides a forum for different views to get that public attention. Personally, one of the things that I have not seen anywhere else in the world in a parliamentary system is Senate Estimates. And for four weeks a year, the Senate doesn't sit in the same way the House does. But from 9am to 11pm, for effectively 12 hours a day, when you take out the breaks, it allows Senators to not just ask questions of ministers and their representatives, but to directly ask questions of officials, of public servants, of government agencies. And that degree of scrutiny, that time that allows for quite exhaustive questioning - and sometimes it can go on for extra days - is something that ensures a degree of accountability of administrative decisions and the development of policy that I don't see in any of our State Parliaments, and I really don't see in other parliamentary systems around the world. There's nothing quite like Estimates. And when you speak to people overseas, particularly those who are involved in committees, they are quite amazed that Australia has developed this system. I might also say that the Senate has got a special committee at the moment, that's running into investigating and overseeing the government's response to COVID. It was put in place last year by the government and the opposition jointly; it has an opposition or non-government majority; it is chaired by a non-government Senator. And I think the fact that we had basically everyone in the Senate, and everyone in Parliament agree that a Senate Committee, structured in such a way, was the ideal way to actually conduct that sort of oversight

and ongoing investigation into administration, actually reflected both the standing of the Senate and the expertise of Senators who spend a lot of time on such matters, and have developed quite a bit of expertise, either in a specific policy area, or in general accountability mechanisms that are undertaken through Senate Committees.

**Ebony Bennett** 18:53 The other thing that I wanted to ask you that Ben mentioned, was the diversity in Parliament. And I think that you've talked about both the representation of minor parties and perhaps geographically-remote areas. But you've also said that the usual complaint from governments is that they can't get legislation through. But I don't think having to generate wider consent than just one's own party is a bad thing. Can you just expand on those comments and why you think diversity is a strength of the Senate?

**Scott Ryan** 19:25 So one of the....I've generally had a view that incorporating wider views into determining public policy decisions is, in principle, not a bad thing. I have always thought that one of the reasons that we haven't had the same level of dissatisfaction expressed in Australian politics, and there are many reasons - that we've had a better economic situation, a whole range of factors - has been that our Federal Parliament is not winner-take-all politics. It doesn't matter....you can win an election, but you still have to negotiate a little bit to get your agenda through. You can announce a Budget You can announce policy change. But you still have a forum whereby opposition views or different views can have a hearing, whether it be through the Senate itself, voting on legislation or committees. And I personally think that, in Australia, a lot of people take a little bit of faith from the idea that it may not be their particular chosen government, it may not be their particular chosen policy, but the fact that they're aware that there needs to be needs to be some to and fro, will lead to greater acceptance of policy outcomes. I think it leads to greater stability. I mean, I don't think we've had the wild swings in policy. So to use Britain as example, after World War Two, they started nationalising things. Come the 1980s, they were privatising things. Australia never quite went as far either way. So the need to take into account other views, in my view, and have a bit of compromise has led to a bit of a moderating effect on politics. The other thing I'd say is and Ben rightly mentioned, the gender balance in the Senate is 50/50. We're coming up later this year to the 50th anniversary of Australia's first indigenous parliamentarian, Neville Bonner, appointed to the Senate in June 1971, I think it is. And of course, the second indigenous Senator as you highlight in the report, member of Parliament was also a Senator in Aden Ridgeway. And since then, we've had obviously, a number of other indigenous parliamentarians elected as well. Generally around the world, I remember reading some research a long time ago, that proportional representation lists systems did tend to get up to

representation of traditionally-underrepresented people and groups faster than single member electorate-based systems. This is 20 years ago, I read this when I was still studying. And so, if that holds, then it's natural that you would expect the Senate to reach these things first, because that tended to have been the example I understand if I could recall correctly in Europe and places like that, compared to continental Europe, compared to say, the House of Commons and the United States. So that isn't surprising that that research holds. But I think that representation of views, places and people, the system is stronger after having that, the system is stronger through the inclusion of more voices.

**Ben Oquist** 22:27 I just wanted to ask about the proportional question, because you touched on these two things. One is the power of the Senate as an equal chamber, which is unusual to be fully equal. And this proportional representation. And I think it's the combination of both that makes the Senate so important. It's no use giving people a voice in a chamber that doesn't have any power - it won't have the status and it won't be listened to, because there's plenty of opportunity for people to have a voice. But what gives something a real voice is that it has power behind it. And I think that's sometimes misunderstood when people say, Oh, well, let's just give the Senate some say, but not the power to block. Ultimately, that would disempower the Senate and you would start no longer hearing those voices because the media wouldn't take them seriously because they didn't have real power behind it. And the other is that proportional representation. I wanted to ask how deep you think the commitment to proportional representation is around the Parliament for the Senate, because it's not something that is overly loved by some political parties and there are reforms being proposed from time to time to limit or change the proportional representation. How deep do you think that commitment to proportional representation is? And do you see any threats to it in the future?

**Scott Ryan** 24:05 There have been proposals. I think John Howard had one to enable a joint sitting of the Senate in the House to resolve legislative conflict without having an election. That wouldn't have changed the electoral system of the Senate, but in my view, would have weakened it because, with a large enough majority in the House, a government of the day could wait out the Senate's power and then overwhelm the joint sitting. We currently have that process in place, but we have it with an election intervening so the people make the choice. And I think that's quite a good balance between democracy and encountering, including minor parties and diverse voices. The election there being the key. The only recent proposal was one from a colleague in the House that said, we should get more Senators out of the cities into the country and divide the states up on a geographic basis. And that would stir the mal-apportion, the only real democratic legitimacy problem I think the



Senate has, which is that there are 15 times as many voters in New South Wales, I think, than there are in Tasmania. And so the number of votes that elect a Senator from Tasmania is dramatically fewer than the number of votes that elect a Senator from New South Wales. And there's no way around that, that's the history that the Senate was necessary to form the Commonwealth of Australia. I can't foresee any situation where the states, more than four of the states, would vote to effectively change that arrangement. And you would, in fact, need every single state, I think, to agree to change the equal numbers of Senators. So then you have the issue, as you mentioned, would someone like to change the electoral system? Look, you never say never in politics. I can speak for my side, to the extent that I think there is a strong commitment from a good number of Senators on my side to the current Senate arrangements, despite the frustrations we all, including me when I was a minister occasionally express. And then we can rely on that quote from John Faulkner, which is that the support for the government comes from the opposition, and I don't realistically see an opposition, nor the crossbench, voting to change, even if such a proposal was raised. So I realistically don't see a proposal like that coming forward. It would have trouble navigating its own side of politics, no matter where it came from. It would then have more trouble navigating the Senate. I think the changes made for the 2016 election to remove group ticket voting and the preference whispering that was going on, have increased legitimacy of the Senate. We no longer have someone being elected on potentially 1% of the vote through good preference deals, which can still happen in Western Australia and Victoria's Upper Houses. So I don't realistically see such a proposal coming forward.

**Ben Oquist** 26:42 I wanted to just pick up on a little bit of a theme there, which is: is it a Left / Right issue? The Senate, I mean, you've talked about how it had been a policy platform of the Labor Party to get rid of the Senate. You've talked about more recent proposals on the Right, to effectively nobble the Senate. You're a former Research Fellow at the Institute of Public Affairs, considered on the Right of politics, but a fierce defender of the Senate. Do you see this, the role of the Senate, its power, its voting system, as really kind of breaking down those traditional divides? Or does it still kind of neatly divide on Left/ Right, from time to time, attitudes to it?

**Scott Ryan** 27:38 Yeah, that's a interesting question. And I can probably speak for myself best. I have always been someone who believes in the division of power, whether that be a federal state division or division with two strong chambers. That's always been my instinct, that a smaller group of people possessing more power is not something I support. Now, as someone who is a pretty free-market, small government liberal, that probably wouldn't surprise a lot of people. But Australia also has

historically a strong majoritarian culture. So the Labor Party's support for the abolition of the Senate for many years, and I think it was dropped about mid-20th century was based on the idea that, quite frankly, like the House of Commons, there should be one supreme Chamber of Parliament with full democratic legitimacy. And that is the most democratic way to do things. And if anything, that reflects the arrangements in the United Kingdom, where the House of Lords can't block any legislation now, and since 1911, hasn't been able to block effectively a financial measure. So I don't know if it is a Left/Right thing. I think it's sometimes expressed as such. In fairness to Barnaby Joyce's proposals, I don't think that is a Left/Right thing. He has a concern that while only two thirds of Australians live in the cities, more than three quarters of Senators are based in cities. And so there was an issue there of regional/urban balance, rather than left or right. But in, at least in my experience and some of my colleagues, there are lots of people who support multiple voices being heard. Some of them might be like me, because they're sceptical of the use of state power and what... we see this as a check and balance. Others probably have more of a weighting of I guess, on the view that we get many more diverse voices being heard in policymaking. I like both. And I think if you look at Australia over the last 40 or 50 years, we've dealt with some very difficult situations. We've done it with, imperfectly like all systems of government, but without some of the social tension, I think that we've seen elsewhere in the world. And I think the Senate has been part of that by ensuring that people who otherwise might not have a voice or might not trust the voices that are being, making decisions, actually see other voices being heard.

**Ebony Bennett** 29:51 And we'll go very soon to questions from the audience. But before we get there, I did want to touch on more recent events Scott Ryan. There's been a lot of talk about the culture of Parliament recently with the alleged rape of Brittany Higgins in a Minister's office as well as the allegations against the Attorney General, which the Attorney General has strenuously denied. As Senate President, what are your observations on the culture in the Senate and what can be improved in the culture more generally, to make politics, I guess, less hostile to women?

**Scott Ryan** 30:29 So if I just put the specific examples you mentioned to one side, there have been a few examples in the Senate in recent years of very difficult moments where I had to make some statements to the Senate about standards of behaviour. One of them was a subject of legal action between Senator Hanson-Young and former Senator Leyonhjelm, and another one were comments made by then Senator Fraser Anning, I think outside the chamber, but then also some inside the chamber. I think that the most important thing I try and remember - we all get a bit heated in politics - is empathy. It is understanding that different people

have different life experiences, different perspectives, and we can't know them all. And from that, comes respect. And I think there's been an element of media and social media that has created an intensity around politics that has led to language changing, which has made it more confrontational, more hostile, more impugning of motives, not: "Scott Ryan, you won't take enough action on climate change, and therefore the country will bear consequences." But "Scott Ryan, you won't take action on climate change, because you're in the pay of someone." You know, when we assign a motive to action, as opposed to making an observation about fact, in my view, what we're saying is you don't have to listen to that person and I think that's very unhelpful. That's generally about politics. With respect to this workplace, and particularly the treatment of women, and I might say we've had some other instances that are difficult as well, the ones I mentioned earlier. Now, the Speaker and I plan to fully participate with the Jenkins Inquiry. This is a workplace with a lot of different authorities. So, for example, most of the people in the building are part of the Department of Parliamentary Services who service the building, collect Hansard, Parliamentary Library....we've got the Department of the Senate, the Department of the House of Representatives, the clerks, the Committee staff, they're all effectively administered by the Speaker and myself through the various departments, the political staff, of Members of Parliament and Ministers and Shadow Ministers, effectively employed by the Department of Finance under the Members of Parliament Staff Act. And so they're administered very differently to the officials that we have arrangements for.

**Ebony Bennett** 32:58 Can I just ask - the other issues that you mentioned there with Senator Fraser Anning or or wherever where you've had to make some type of statement to the Chamber. Is that to more or less try and set the tone and set that standard? Can you just walk us through, yu know, why you decided on that approach and what you're aiming for with those types of interventions?

**Scott Ryan** 33:23 Well, as the Senate President, I don't have the same powers as the Speaker. So for example, the Speaker can eject someone from the House of Representatives for an hour, I think it is an hour, without a vote of the Chamber. I don't have that authority. My observation is the difference between being President of the Senate and Speaker of the House is the Speaker rules with authority. I have the power of acquiescence and consent. And so, when things occur, that I think are inappropriate, I try and say so, or I will try and draw attention of the Chamber and all its members to what we aspire to, which is to represent the interests, views and experiences of those who send us here, as well as understand the perspectives of those who don't. Who didn't vote for us I should say. So that's what your role is, as a Chair. I don't have a particular rulemaking

power, or, as I said, the power to eject someone. So, you know, without meaning to judge or comment specifically on any particular incidents in the Chamber, that's my job as sort of the person who occupies and is the custodian of the rules of the Senate.

**Ben Oquist** 34:32 Do you think the Senate is a better or worse place for women than the House and do you think it's a better or worse place for women now than it was 10 years ago?

**Scott Ryan** 34:44 I, you know, honestly, I can't compare it to the House. I've never spent time there and in fact, virtually all the time I've spent in the building before I was a Senator was working on this side as opposed to on the House of Representatives side. And to be honest, while I could make some observations, it's hard for me to provide a direct answer as to whether it's better for women or not because I'm not a woman. I think politics has got a lot nastier. My friends on both sides, the stuff that they get through their offices and social media and the observations, they're nasty to everyone, they are worse for women. They are worse, in my view, having spoken to people so that anyone that comes from, like, a different racial background, indigenous person just seems to cop more abuse. It's unpleasant for all of us. But some of the stuff on social media, it has really surprised me. Things are said, that I think, one thing we've all learnt is that social media has allowed people, some people, to express views that I didn't think really existed that much anymore. That's been the surprise. Now I don't mean to sound naive there. But I know some of my friends who are women who have been Ministers - some of the stuff I've seen them cop has just been extraordinary. And I didn't see that 20 years ago.

**Ebony Bennett** 36:04 Yep. Well, we might go to questions from the audience now. I'll kick off with a kind of a big picture one from Nathan Chapman. He asks "What are the pros and cons of a unicameral system such as in New Zealand compared to what we've got in the Senate?"

**Scott Ryan** 36:22 So I did flag this at the end of my opening comments. I find those arrangements like New Zealand and other continental European countries, which will elect a Parliament, single chamber potentially, or at least the chamber that forms government by proportional representation - I find that they lack democratic legitimacy. And I know that may sound odd, but I'll briefly explain. In Australia, you will go to an election in the House and generally, you'll know that one of the Coalition or Labor will win; they'll have a policy agenda, and it will be put forward. The challenge I have with proportional systems is that you don't usually get a majority of one side or the other. New Zealand's a bit uncommon at the moment with the result that the New Zealand Labor Party had. And historically, we've been very predictable with one side or

the other side winning but we have had two of the closest elections out of the last three in the last 60 years. What I don't like about proportional systems is that both sides can all put up a policy manifesto, but then it's all subject to negotiation after they're elected. Things can go, be thrown out, things can be added in. And I don't think that is as democratically legitimate, as one side forming government, but then you ensure those voices that come proportionally are represented in the implementation of an agenda. So it's not about negotiations to form government. But it is about negotiating the implementation of agenda, of an agenda. I think that's a good balance. I don't like the idea of politicians, could have even been people like me, sitting down conducting negotiations after we've got elected on policies, deciding what gets thrown in and out of the cart in order to cobble together a majority to form government. Forming government should be a matter for an election. We've got compulsory voting, easy voting and preferential voting, which I think is a very democratic balance. Then we have an Upper House that is proportional, that ensures those other views. And remember, about 8% of people vote differently, sorry 8% of people fewer, vote for the major parties in the Senate than the House, ensures however those views get heard.

**Ebony Bennett** 38:24 The next question is from John Ingram, who says Senate Inquiries often produce potentially useful insights on important issues. But their findings often seem to be filed and forgotten. How can they be made more effective or accountable to the government?

**Scott Ryan** 38:43 Well the Senate requires government to respond to Committees and occasionally, if the government hasn't responded, then there'll be a motion in the Senate to draw attention to that. I think, well, I don't have a lot of experience in this. One of the things I do think the Senate Inquiries can make a difference for, is to inform administrators, bureaucrats, public servants, about concerns that are held by stakeholders or experts, or people that have an interest in a particular program. I think there's a lot of influence that Senate reports have that is sort of below the surface, that can drive the development of public policy or tweaking a policy. There are a lot of them. And I do think that our crowded media world has meant that they don't get the same attention as they used to. I've made an observation in another forum that the Senate is at its best when it's a forum for different views and negotiations and compromise, not a stage for people seeking attention. And so the same applies to Committees, I think, where you actually have work by often long-standing members of Committees, who have got expertise in a particular area. I think that can inform the leaders on both sides, the Ministers and the Shadow Ministers but also particularly the public servants. But you're right to observe that they don't get the same attention that they used to. But I don't think it means they're not having influence. And I draw people's attention again to that COVID Committee,

which everyone in the Australian Parliament said should be a Senate Committee and not have a government-majority. That degree of scrutiny does not exist in any of the states, and particularly my home state of Victoria, where there's a government-majority Committee that oversees the government policy. We have a degree of scrutiny in Commonwealth federal politics, that does not exist, in my view, in any of the states.

**Ebony Bennett** I've got a question here from Terence Hull, who says, "What is the  
**40:31** relationship between the President of the Senate and the Speaker of the House in managing parliamentary business? And do you share administrative offices? And do you have any suggestions for reform?"

**Scott Ryan** So the Speaker is responsible for the Clerk, the Department of the House  
**40:48** of Representatives, so Committee staff, chamber attendance and staff of the House. I am the same, with the Clerk of the Senate as the CEO of the Department of the Senate, Senate Committees and all the work that goes on there. But most of the management and administration work, they are part of the Parliamentary Service - it has its own separate Act of Parliament, like the Public Service Act. So they've all, you know, they're all effectively treated as if they are public servants, just not under the control of the Executive of the day. Jointly, the Speaker and I are responsible for the Department of Parliamentary Services, which is most of the staff in the building. And that arrangement was put in place just over 20 years ago, maybe a quarter of a century ago, combining three other departments. It's a challenging workplace. But I think it's reasonably effective. And I don't have to, I don't have any specific proposals for change to those arrangements. As I said earlier, the staff of Members of Parliament, Ministers and Shadow Ministers, employed under different arrangements, not under the oversight of the Speaker and the President jointly. But I'm lucky, I've known Tony Smith for decades. We get along very well. So, as I say to him, his only flaw is that he supports the wrong football team. But other than that, friends, so that does make it easy.

**Ebony Bennett** The next question I've got here is about the role of trade-offs in the  
**42:09** Senate. So Virtual Wilson has asked, what are some of the examples of deal making in practice in the Senate and what has been traded off to secure the passage of some landmark legislation?

**Scott Ryan** Well, yeah. One of the changes in the Senate, and my knowledge of this  
**42:28** is imperfect because I wasn't a member at the time. But if you go back to before the rise of the Greens, and when the Democrats were the crossbench party, where the government of the day needed to negotiate. In the last term of the Keating government, they needed both the Democrats and the Greens from WA, I think, two Greens. But when

John Howard came to office in '96, if he couldn't get Mal Colston and Brian Harradine, he effectively needed the Democrats. And the obvious example there, was the success of after the '98 election, legislating the tax reform program with the Goods and Services Tax, but the Democrats insisted that fresh food and a couple of other things be taken out of it. So it wasn't quite the same as it was taken to the election. What has changed since is that, my memory is that the Democrats essentially had a different negotiating strategy, which was to negotiate on the terms of the Bill, rather than ask for trade-off in an unrelated policy area. And that has been the change since the decline of the Democrats. And I'll let other people judge whether that's a good thing or a bad thing. I make the observation. But for example, when Julia Gillard legislated the Carbon Tax or you know, there were trade-offs, like I think the Clean Energy Finance Corporation and other things were brought in, broadly related. So now, the negotiations and trade-offs tend to be outside, include aspects of things outside. It might be, for example, people negotiate over the formation of a Senate Committee Inquiry into particular issue. That's something that, you know, some of the parties and opposition cross bench have occasionally been very keen on, that might allow them to bring attention to an unrelated issue. But yes, that does tend to happen more now than it used to.

**Ebony Bennett** Ben, did you have any comments on that as someone who worked in  
44:17 Senate for many years?

**Ben Oquist** Yeah, I think that it really is an interesting observation. And of course, at  
44:22 one level, that seems kind of reasonable enough that the negotiation should be just about a piece of legislation. On the other hand, the more things that are being negotiated, the more things that are on the table, can allow negotiations to go more easily, because people's different agendas and different interests can be accommodated when you're discussing a broader range of issues than a narrow one. It did lead me to the question - and you talked about the stability that the Senate has potentially provided in reforms not being unwound so quickly - and one of the ones we like to promote most at the Australia Institute is the Clean Energy Finance Corporation, an arena which you've just alluded to which Tony Abbott attempted to repeal, but were blocked, and now seen as kind of positive by all sides of politics and the government uses those vehicles to pursue its climate policy now. On the other hand, you do hear rhetorically from all sides of politics and not just Paul Keating and his most famous "unrepresentative swirl" line, that the Senate, and I think it's kind of a cheap narrative, but the idea that the Senate is a handbrake on reform in Australia. That it's holding back politically-difficult reforms, and I think it's often talked about in the economic context. What's your view of that?

**Scott Ryan** So this is where I'll try and take a step back from my own world view.  
**45:56** You know, I wasn't a fan of the Clean Energy Finance Corporation, probably wouldn't surprise anyone, like, I didn't like an earlier proposal, I think, in 2008, for one bank to help the property industry - you know, publicly-funded measures in that sense. But if I take a step back from my own world view, let's be honest. Reform means an agenda being implemented by someone. Your idea of reform may be very different from mine. So whether it holds back reform or not, I don't think is the test. Does it require a greater level of participation and acquiescence or support for measures that affect substantial numbers of the population? I think that's a good thing. Now, if that makes it harder for me to do things I want, then my job is to persuade more people. My job is to win more elections. But I think if you look at the example of what happened in the UK in the late 40s, I mean, there was one election result in 1945 and the country was profoundly different a few years later, when industries started to be nationalised, which took decades to unwind. Yet in Australia, we also did undertake pretty substantial economic reform in the 80s. And I think we did it successfully and without some of the social dislocation of other parts of the world, including, it wasn't as brutal as it was for example, what happened in parts of the UK or parts of New Zealand. So the idea that I am required as an advocate for change, to get more people on board, I don't think is a bad thing. Even though it is occasionally frustrating.

**Ebony Bennett** I think Harry Evans used to say something similar about the Senate,  
**47:34** sometimes saving government from itself.

**Scott Ryan** Harry, and Harry has written you know, most of what Harry has written  
**47:41** about the Senate, I mean, I studied it when I was at uni, and I found it incredibly persuasive. And his writing has stood up, I think, to events that he couldn't have foreseen a decade or more after his passing.

**Ebony Bennett** And the next question I've got is from Patrick O'Leary. He says "Quite  
**47:56** soon, it may be the case that the ACT has a greater population than Tasmania, but a grossly disproportionate Senate representation. Is there any mechanism for addressing this given the role of federal parliament and its powers over the territories?"

**Scott Ryan** So the Parliament could grant more Senators to the ACT. It couldn't  
**48:17** grant them more than an original state, so Tasmania. I mean, I alluded earlier to one of the imperfections of the Senate, is what is a pretty substantial mal-apportionment. But it was the price of Federation. There was not going to be a Commonwealth of Australia without a Senate entrenched the way it is, and requiring not just a normal referendum majority, but a super majority and consent from each state that was affected by a change to the Senate. So I like to say politics is imperfect.



But we look at the national results. Again, if you go back to the national results - now I just took some notes earlier to look at this - there's been substantial growth in the non-party vote, the non-major party vote, from a fifth in 2007 to a third of the Senate in 2019. A fifth of all Senators come from outside the two major parties, and all parties receiving over 3% of the national vote are represented in Senate. That's fairly representative, even if the mechanism we use is imperfect. So I don't really have a strong argument against what Patrick just pointed out. It's sort of the price of Federation. Whether that changes or not, I doubt you'll ever see the ACT treated like one of the original states.

**Ben Oquist** 49:39 I'd just say that page 32 of the report attempts to address some of these issues and while noting that difference in representation - quotas effectively from each state - how well despite that, the Senate is representing people's vote in superior terms to the House of Representatives. Not that that fully addresses Paddy's point or concerns, I think there is a strong case for increasing the number of Senators from the Territories and no reason why the ACT and the Northern Territory shouldn't have four senators, and wouldn't get yourself into any constitutional difficulties.

**Ebony Bennett** 50:21 We've got about 10 minutes to go. So time for a couple more questions yet. The next one is from Dave Dave. I'm not sure if you're a David David, or you put it in, you name it twice, Dave. But Dave mentions that party politics in Australia is one of the strongest in the world. And do you think it is undermining some of the roles of the senate?

**Scott Ryan** 50:47 So I have, you know, one of the reasons I'm in the Liberal Party, or one of the many, is that I have always opposed the binding caucus and the pledge to the Labor Party. I, you know, it actually was, if you go back and read the early years - late years of the 19th century and the early years of the 20th century - one of the most contentious elements in early Australian politics. The pledge that the Labor Party and the unions introduced on members of what became the parliamentary Labor Party, and quite a few members left the Labor Party over it. And that has always driven, you're quite right, a degree of party discipline in Australia, that is not common in other parliamentary democracies. You find people breaking the party line or breaking the whip in the UK, Canada, more than you do here. But it's not like the US really anywhere. Parliamentary systems where you have a Chamber that forms government tend to have stronger party discipline. And in fact, a lot of academics would argue, that is one of the reason parliamentary democracy is a superior form of government than a separated Executive legislature model, such as in the US. Now, we don't have enough time to go into that. There's lots of views on it. But it is an issue. I do think, however, that, again, it's something that the Senate through having a lot of diverse voices and a

proportional system, does mean that we have more of those expressed and represented in debate, even when we have strong party discipline. Ben would probably remember, at least on my side of politics, the Senate and Senators have often had historically, a much looser connection with party-disciplinary members of the House. And in fact, in the Fraser government when he had a majority from 1975 to 1981, there were many, many occasions where Senators from the government crossed the floor against their own party. It doesn't happen as often now. But I do think that one thing that does occur is that inside both parties, Senators do express and I can say from the experience of the Coalition, Senators do express internally, a greater divergence of views, partly reflecting the diversity of voices comprised in the Senate itself. I should add that I don't mean to dismiss the House there. They do as well. I can really only speak to my experience in the Senate.

**Ebony Bennett** 53:02 Yeah. Ben, did you want to comment on that? And also, I've got another question here from Kim Darling, who asks about the role of minor parties in independence in perverting good debate by the government of the day, and thinking there of the role that Senator Harradine played in the past. But did you just want to comment on the role of minor parties and independence in the, I guess, the crossbench in the Senate?

**Ben Oquist** 53:27 Yeah, and the crossing the floor notion? I do think that's interesting there hasn't been as much floor-crossing in the Senate. I think there would be more floor-crossing if the government had a majority in the Senate. And I think in effect, there was more, when it had that majority period, just before Senator Ryan was elected, Barnaby Joyce made his career in fact out of crossing the floor or threatening to cross the floor, when the government effectively had a one-seat majority in the Senate. It's not likely that either side will have a majority in the Senate anytime soon. But it's always possible. The Coalition is not that far away from it, and a strong landslide result could produce it. And I think you'd see a lot more floor-crossing in those circumstances as we have in the past. I do think that minor parties and crossbenchers just inherently increase the diversity in the Parliament. But I think the key point is though - and Harry Evans often made this point, and Scott talked about it - is the special power of the Senate to be an equal house. Those voices are not heard, they're not a point for the community, unless the Senate's powers are strong and they are constitutional. And I think that's what gives it its special role.

**Ebony Bennett** 54:54 We've only got a few minutes left, so we're going to have to wrap it up there, I'm afraid but Scott, you've got a new book coming out. In fact, I think it's just come out recently on Challenging Politics. Do you want to tell us a little bit about that?

**Scott Ryan** 55:09 I think it's being released on Thursday night officially, or maybe it was last week. It's part of a series that Monash University is publishing in the national interest. I think there are eight coming. And I was given the opportunity late last year to pull together what is effectively a long essay explaining that what's changed in our politics, that have made a number of our assumptions about how we get things done harder to achieve. One of those is not compromise for compromise's sake. But knowing that 70% of something is better than arguing for 20 years, over 0% of everything, and that the pressures on our political system, the pressures on the media, are creating unique challenges on politics. And we need to focus on what we want to keep, what we need to maintain in a new media and political world. And I mentioned one of the things earlier that, one of the things I've noticed over the last decade is that people don't debate with each other on facts. There's a lot more impugning of motives. And there's a lot more saying you won't do this because of something, which is really an excuse for people to not listen to you. I'm not claiming I'm perfect on this. No politician has a halo. We, you know, we've all, we all look back and think we could have done something a bit better. But the other thing is the importance of compromise and trade-off. Not everything can be the top priority. If we do A, we are going to do less of B, even on the basis we don't have time to do both at the same time. If we are going to spend more, we're going to raise debt or raise taxes. If we're going to cut taxes, we're going to cut spending or increased debt. And there isn't as much discussion in my view of what those trade-offs entail. That's partly a product of single issue groups, I think, all arguing for their own priority to be number one, and the weakness of political parties because they're not as big as they used to be.

**Ebony Bennett** 56:56 Well, I encourage everyone to go out and see if they can find a copy of Challenging Politics by Scott Ryan that's available through Monash University Publishing, and should be available soon if it isn't already in your local bookstore. If you're interested in that report that the Australia Institute has released today, it's up on our website at [australiainstitute.org.au](http://australiainstitute.org.au). (Forward slash - Oh, no, that was events for webinars. I'm so used to promoting the webinars.) You can find that on the homepage of our website. We will have to wrap it up there. Thank you so much for your time today Senate President Scott Ryan, we really appreciate it.

**Scott Ryan** 57:35 Thanks for having me.

**Ebony Bennett** 57:37 Thanks to you as well, Ben. And please join us in the next few weeks for more exciting webinars. We've got not one but two webinars up next week. The institute is delighted to be hosting this year's Closing The Gap

official report launch that's on Close The Gap day, next Thursday, March 18. The report is called "Leadership & Legacy Through Crises: Keeping Our Mob Safe". And that'll be next Thursday, March 18 at noon, and you can find the details of that on our website. And the following day, Friday, March 19, we'll be talking to author and journalist Rick Morton, you might have read a lot of his stuff in the Saturday Paper recently. We're talking to him about his new book "My Year of Living Vulnerably". So stay safe out there everyone. We don't have the vaccine rollout just quite yet so make sure you're staying one and a half metres away, keep washing your hands and stay safe out there. We're nearly hopefully through to the other side of this. Thanks so much for coming today and we hope to see you next week. Thanks again, everyone.

**Ben Oquist** Thanks, Scott. Thanks, Ebony. Terrific.  
58:42

**Scott Ryan** Thanks, Ben. Thanks Ebony.  
58:43