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Reading Description:


Reading Description Disclaimer:
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THE AUSTRALIAN PARLIAMENT

THIS CHAPTER EXPLAINS:

- the origins of parliament;
- parliament and the modern state;
- the functions of parliament;
- problems with parliamentary government;
- Australia's parliamentary system;
- the representative function of the parliament;
- the procedures of the House of Representatives and the Senate;
- the legislating function;
- the Senate and money bills;
- investigating government expenditure;
- parliament's role in the scrutiny of government activities; and
- the Senate as a house of review.
Why do we need to know how the Australian parliament works? After all, as outlined in Chapter 2, many Australian citizens have a poor regard for our parliament and its members.

Most of us only consider parliament from the perspective of the television news, where we often see our parliamentarians behaving in a rowdy and relatively undisciplined manner at Question Time. But Question Time is the theatre of politics. It is the forum where Opposition and government MPs take the opportunity to score points off each other to try and gain political advantage. Television 30-second news 'bites' don't permit us to see the more substantive work of parliament—the manner in which government legislation is introduced, debated and scrutinised as it makes its way through the parliamentary processes to become law.

Our parliament is important because it is the keystone of our system of representative democracy. We elect the members who sit in the House of Representatives and the Senate. The party holding the majority of seats in the House of Representatives forms the government that makes the policies and frames the laws by which we are governed. The legislating function of parliament is important because it not only passes those laws, it also provides our representatives with the opportunity to debate the merits of what is being proposed and to question what the government is doing. In other words, it has the function of keeping the government accountable to the people.

Because parliament is an integral and core part of our system of democratic government, we will now explain the origins of the parliamentary system, what parliaments do, the different ways in which they can be constituted, and the workings of the Australian parliament.

**ORIGINS OF PARLIAMENT**

All communities have some form of gathering to discuss problems and decide what action should be taken. The form of gathering, its membership and its discussions vary greatly according to the size of the community and the relative complexity of its life.

In some states, decisions are made by a small elite, such as a monarch, chiefs, military rulers, experts, and their helpers. Other community gatherings involve almost all adult citizens, who engage in direct consultation and decision making—in other words, a form of direct democracy. For example, the citizens of ancient Athens came together to make decisions about the government of their city. In today's more complex society, where this is not usually possible, referendums provide a form of direct democracy.

Power can be wielded by a very small group (an oligarchy) or, in some cases, by an absolute ruler (a dictatorship). Community views may be expressed by representatives, placed in that role by election, appointment or hereditary office. Some countries, such as Australia, have a system of representative democracy, where citizens elect a member of parliament (MP) to represent their interests.

*Representative democracy* is a system in which citizens elect a member to parliament to represent their interests.
In Britain, from whom Australia has borrowed and adapted many institutions and practices, the modern parliament can be traced back to the council that was summoned regularly to advise the monarch. This gathering was eventually referred to as *parlement* (from the Old French, meaning 'discussion'). The British parliament developed into two houses—the hereditary House of Lords, and the House of Commons representing the medieval towns and boroughs. Parliament's deliberations often resulted in the king approving statutes or laws regulating the life of the country and, most importantly, the granting of money (raised by taxes on the people) to meet the cost of the monarch's government.

There were frequent disputes between the monarchs and their households which were responsible for the actions of government (the executive), and the parliament, which demanded greater consultation on the uses of the money it agreed to provide. Over several centuries, power gradually passed from the monarch to the parliament. By the 18th century, senior ministers sat in the Commons (they had formerly been in the Lords), and by the early years of the 19th century ministers required the support of the Commons, not just of the monarch, in order to retain office. In this way, *executive power* came to be centred in parliament (the legislature), rather than in a group appointed or elected separately.

**Legislature:** an institution, either elected or appointed, that has the power to pass laws.

**PARLIAMENT AND THE MODERN STATE**

Most modern states have a form of parliament, including democratic nations like the ones we have been looking at in this book. So do authoritarian and communist regimes such as:

- Libya: General People's Congress (authoritarian state);
- North Korea: Supreme People's Assembly (communist state); and
- China: National People's Congress (communist state).

In these systems, opposition is suppressed and the parliament is controlled by the ruling group—in Libya by General Qadhafi, and in North Korea and China by the ruling Communist Party. These parliaments exist to 'rubber stamp' the laws drawn up by those who wield the political power.

**Rubber stamp** is the term that describes a parliament that has no independence from the executive. Its function is to approve the bills put forward by the executive.

A *parliamentary system of government*, by comparison, is one in which the executive is responsible to the parliament and the parliament in turn is responsible to the people.
In all parliamentary systems the legislature holds final decision-making power over lawmaking and the finances of the country.


The legislative power of the parliament of any political system is determined by the constitutional arrangements of each country and by political practice. Some countries, such as Britain and Australia (as we saw in Chapter 3), continue to operate as constitutional monarchies and the final assent for legislation lies with the head of state. However, it is a convention that this is purely a procedural act and it is not expected that the head of state will refuse to pass bills into law.

Under the constitutional arrangements for the United States’ presidential system of government, power is divided so that legislation passed by the parliament (Congress) has to be approved by the president, who can return bills to the parliament for amendment and who also has the power of veto.

In presidential systems a single head of state, often elected, dominates the executive and appoints all members of government such as cabinet ministers and senior public servants.


Parliamentary structure

The way different parliaments are structured is determined by constitutional arrangements and political practice.

One or two chambers?

Some parliamentary systems, such as New Zealand, have unicameral legislatures; that is, they only have one house of parliament. Most modern parliaments, like the countries included in our study, are bicameral; that is, they have two houses and each may have significant power. In the federal systems that we looked at in Chapter 4, the second chamber was established to represent the interests of the states. In the British system, the second chamber, the House of Lords, is a residual hangover from the monarchical system.

Naming the parliament

Parliaments have been given a range of names by different countries, such as assembly, congress, diet, house of representatives and senate. The British House of Commons and House of Lords, as noted above, have historical roots in the movement from a monarchy to representative government by the people. The federal systems in our study adopted the terms ‘House of Representatives’ (including Germany’s Bundestag) for the popular chamber and ‘Senate’ (including Germany’s Bundesrat) for the house designated as representing the states of the federation.
Seating in the parliament
It may appear to be superficial to discuss the seating arrangements in a parliamentary chamber, but they are based on ideas about how parliament should operate and political practice.

In the British House of Commons, seating is arranged as two blocks of benches facing each other, divided by an aisle, with the speaker's chair at one end. This originates from the past when the chamber was the chapel in the Palace of Westminster prior to being taken over by the Commons as a house of parliament. The seating arrangement has been maintained for historical reasons and supported by the idea that the government and the opposition should face each other directly over the floor of the chamber. A red line is drawn on the carpet in front of each set of benches; the lines are two sword lengths apart. Traditionally, members do not cross these lines during debate. This arrangement gave rise to the modern use of the term 'toe the line'; members who support their party's policies are said to do this. There is not enough seating for all of the 646 MPs in the House of Commons, which has only 427 seats. This means that MPs have to crowd into the chamber when a division is called, with many having to stand.

Former British prime minister Winston Churchill argued that 'if the House was big enough to contain all its members nine-tenths of its debates would be conducted in the depressing atmosphere of an almost empty or half-empty chamber'. In 1943 an MP said he favoured the existing arrangement because he didn't like turning at a slant to argue with an opposition member.


If the governing party has a very large majority, government MPs are crammed to one side, and there are not enough seats for all MPs to take their place in the chamber. It could be argued that this inhibits their democratic right to sit in parliament as elected representatives of their constituents. When the House of Commons was rebuilt in 1950, after being bombed in the Second World War, there was an opportunity for the size of the chamber to be increased, but tradition held and the new chamber replicated the original in size and design.

Most other parliaments (including countries in our study) have adopted a semi-circular arrangement, with seats for all members in the chamber. Members of minor parties and independents sit between the government and the Opposition in what are commonly called the 'cross benches'.

Parliamentary terms
The duration of a parliamentary sitting (commonly called a term) varies considerably, as we can see in Table 5.1.

Two-year terms keep a government responsive to the people. However, this does mean a government is always in 'election mode' and as such may be less inclined to take politically unpopular decisions or look to the long term when developing policy. Five years gives a government the opportunity to introduce long-term measures, or policies that may be electorally unpopular, because it has longer for them to take effect. On the other hand, electors have to wait five years (or half a decade) for the opportunity to vote a government out if they are unhappy with what it has been doing.
TABLE 5.1
Parliamentary terms compared

<table>
<thead>
<tr>
<th>Country/house of parliament</th>
<th>Parliamentary term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Britain: House of Commons</td>
<td>No longer than five years</td>
</tr>
<tr>
<td>Australia: House of Representatives</td>
<td>No longer than three years</td>
</tr>
<tr>
<td>United States: House of Representatives</td>
<td>Fixed term of two years. Elections are held on the first Tuesday of November in even years</td>
</tr>
<tr>
<td>Republic of Germany: Bundestag</td>
<td>No longer than four years</td>
</tr>
<tr>
<td>Federation of Malaysia: House of Representatives</td>
<td>No longer than five years</td>
</tr>
</tbody>
</table>

Elected or appointed?
Historically, British parliaments were made up of members appointed by the monarch, or, in Britain's colonies, by the governor, acting on the monarch's behalf. Most modern parliamentary systems are based on the election of members to represent their constituencies, but there are some instances where the appointment process has been retained.

**British House of Lords**
The membership of the House of Lords is made up of:
- *life peers*, appointed by the Queen on the advice of the prime minister. Since 2000 an advisory body, the Appointments Commission, has made recommendations to the Queen for non-political peers, and vets all nominations for peerages;
- *law lords*, full-time professional judges appointed to hear appeals from the lower courts. These positions will cease when the new supreme court is established in October 2009;
- *Anglican archbishops and bishops*, as representatives of the 'established' Church of the state; and
- *elected hereditary peers*, including office-holders elected by the House; party and cross bench members elected by their party; the Lord Great Chamberlain, who is the Queen’s representative; and the Earl Marshall, who is responsible for ceremonies.


**Canadian Senate**
Members of the Canadian Senate are appointed by the governor-general on the recommendation of the prime minister.


**German Bundesrat (Senate)**
The Bundesrat is composed of members appointed by the Land (state) governments.

(Source: Bundesrat Homepage 2008, http://www.bundesrat.de)

**Malaysian Senate**
There are two categories of members of the Malaysian Senate: each of the 13 State Legislative Assemblies elects two members (total 26), and the king appoints 44 members on the advice of the prime minister.

It could be argued that appointment of parliamentarians undermines the democratic basis of a political system, because we associate representative democracy with parliaments elected by the people. This is particularly the case when the appointed chamber has equal (or nearly equal) powers as the popularly elected house, and has the potential to amend or block government legislation. Problems are likely to develop if the appointees are politically opposed to the party in government, but if the government has a say in the appointments, the members are more likely to endorse government policy.

Power to dissolve parliament
Regular elections are integral to representative parliamentary government. The rules for dissolving a parliament to hold an election vary. In the United States, as we saw in Table 5.1, the dates for the election of Congress and the president are fixed. In other countries the power to dissolve parliament is established by the constitutional arrangements, usually requiring the prime minister to obtain the consent of the head of state. In Britain, for example, the prime minister seeks the agreement of the Queen, who, by convention, accedes to the request. As we saw in Table 5.1, the constitution determines the maximum length of a parliamentary term, but it is often possible for the prime minister, or president, to call an early election. This is usually done at a time when the electoral situation is most favourable to the party in power. When a government is unpopular and likely to lose an election, it is more likely to go the full term.

FUNCTIONS OF PARLIAMENT

<table>
<thead>
<tr>
<th>Functions of parliament</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parliament's functions are to:</td>
</tr>
<tr>
<td>• provide a forum where elected members represent the interests of their constituents;</td>
</tr>
<tr>
<td>• provide, test and, in some cases, replace governments and their leader;</td>
</tr>
<tr>
<td>• discuss, amend and pass legislation;</td>
</tr>
<tr>
<td>• supply money for the conduct of government; and</td>
</tr>
<tr>
<td>• question, publicise and investigate the actions of government and the needs of the community.</td>
</tr>
</tbody>
</table>

Legislating
The primary function of a parliament is to pass laws introduced by the executive of the government of the day (sometimes called a cabinet: see Chapter 6).

The distribution of legislative power within a parliament varies according to the constitutional and political arrangements that operate within a particular system (see Table 5.2).

The powers of the Australian parliament are discussed in detail below.

Parliamentary debate
Debate is an important function of the parliamentary process in a democracy. Ministers usually introduce a bill into parliament, with a statement about the content and objectives of the legislation, and government and Opposition members 'speak to', or debate,
<table>
<thead>
<tr>
<th>Country</th>
<th>Legislative process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Britain</td>
<td>The government, by convention, is formed from the majority party in the House of Commons, so it usually is able to get its legislation passed in that chamber. The bill then goes to the House of Lords which can only delay legislation. It has the power to initiate non-controversial legislation. Bills that pass both houses are then forwarded to the Queen for her assent. (Source: Farman, F.N. &amp; Baldwin, N.D.J. 2007, <em>Mastering British Politics</em>, 7th ed., Palgrave Macmillan, Basingstoke, UK, p. 228)</td>
</tr>
<tr>
<td>United States</td>
<td>The president initiates policy and submits the executive’s bills to Congress. The bills then pass through the House of Representatives and the Senate, both of which have equal power under the Constitution, except that all bills for raising revenue must originate in the House of Representatives. The Congress is more likely to amend a bill if the president represents a different political party. The president can veto legislation passed by Congress. A presidential veto can be overridden if both houses pass the bill again with a two-thirds majority in each house. (Source: Vile, M.J.C. 2007, <em>Politics in the USA</em>, 6th ed., Routledge, Oxford, pp. 121, 140)</td>
</tr>
<tr>
<td>Federal Republic of Germany</td>
<td>The government is formed by the majority party in the Bundestag. Bills must first be introduced into the Bundesrat for comment and then go to the Bundestag. Only bills passed by the Bundestag relating to revenue sharing between the state and federal governments, and imposing responsibilities on the states, require the approval of the Bundesrat. If there is disagreement between the houses, a joint committee of Bundesrat and Bundestag members considers the bill. Amendments are returned to the Bundestag for its approval. A Bundesrat protest vote on bills that do not require its consent can be overturned by a majority vote of the Bundestag. Once a bill has passed both houses, it is forwarded to the president for consent. The president does not have the power of veto. The potential for conflict between the houses is enhanced by the fact that in recent years Opposition parties have had a majority in the Bundesrat. (Source: German Bundestag 2008, ‘Adoption of Legislation’, <a href="http://www.bundestag.de/htdocs_e/parliament/function/legislation/passage.html">http://www.bundestag.de/htdocs_e/parliament/function/legislation/passage.html</a>)</td>
</tr>
<tr>
<td>Federation of Malaysia</td>
<td>The government is formed by the majority party in the House of Representatives. Bills originate in the House of Representatives. Once passed they are forwarded to the Senate for approval where it is unlikely they will be opposed because the majority of Senate members are appointed on the advice of the prime minister. The bill is then passed to the king for his consent. (Source: Parlimen Malaysia 2008, <a href="http://www.parlimen.gov.my">http://www.parlimen.gov.my</a>)</td>
</tr>
</tbody>
</table>

In a parliament where the government holds the majority, this debate will have no impact on the passage of the bill because the government will use its numbers to pass the legislation regardless of what the Opposition thinks. However, because a government explains what it is doing during the course of the debate, the information is placed on the public record and therefore is subject to the scrutiny of the electorate. In parliaments where a government has to get the support of minor parties and/or independents to pass its legislation, these negotiations usually take place outside the parliamentary chamber, but the process of parliamentary debate provides the forum for them to justify their support for the bill and their reasons also go on the public record.

*Question time* provides the opportunity for Opposition members to seek information from the government about its policies and to question its performance. It is mostly used by the Opposition for party-political purposes—to probe a government’s weaknesses and highlight any mistakes it has made. How well a government handles this situation can have an effect on its electoral prospects.
Parliamentary committees

Many parliaments have established committee systems for detailed consideration of legislation or to investigate and examine a particular policy issue. Their functions vary between parliaments. The British House of Commons has select committees that have no legislative function. Congressional standing committees in the United States, by comparison, do have a significant function in the legislative process. After a bill has been introduced it automatically goes to a congressional committee that has the power to amend the bill before it goes back into the Congress for consideration. The Australian committee system is explained in detail below.

PROBLEMS WITH PARLIAMENTARY GOVERNMENT

There are differences between what parliament should do and what parliament does. The functions discussed above indicate the continuing importance of parliament, but in every instance the procedures that are followed tend to restrict even its traditional powers of discussion. A significant factor has been the development of the modern party system and party politics (see Chapter 9). This has led to the tight party discipline found in many parliaments, where MPs 'toe the party line' in relation to how they vote on bills and on the debating process.

Parliament-executive relations

The parliament is limited in its capacity to act independently of the executive in a system of parliamentary majority government. The executive, or cabinet, decides government policy and the content of legislation that is put before the parliament. Because the executive is part of the majority party that has formed the government, it has the numbers in the parliament to ensure its enactment. The parliament can pass a vote of no confidence in a government, but rarely does, because the party in power will use its majority to defeat such a motion. This situation operates more like a system of party government than parliamentary government.

"Party discipline and party unity is always important. I think it goes without saying that if you run an ill disciplined show in Government or Opposition, you lose the respect of the public."

"Because the Australian party system is so inordinately and dysfunctionally disciplined, there is no prospect of the majority in the lower house doing other than closing ranks and supporting a Prime Minister."

The situation is different in parliamentary systems where the upper house, or second chamber, is controlled by opposition parties. This makes it difficult for a government to enact contested legislation and may require negotiation and compromise to succeed. Sometimes the
second chamber can block legislation and may force a government to an election, as happened in Australia in 1975 (discussed below).

In the presidential system of the United States, as we have seen above, the separation of powers established by the Constitution vests executive power in the president, who is not a member of Congress. From time to time, conflict does arise over the passage of legislation when the president comes from a different party to the majority parties in the houses of Congress. This can only be overcome through negotiation and compromise, or by a presidential veto.

-President Bush said he vetoed legislation that would ban the CIA from using harsh interrogation methods such as waterboarding to break suspected terrorists because it would end practices that have prevented attacks. "The bill Congress sent me would take away one of the most valuable tools in the war on terror. So today I vetoed it".

There was little prospect of gaining the two-thirds majority necessary in both houses to overturn the presidential veto.


**Power relationships within parliament**

Other contests that are a function of party politics also occur within parliament. These include:

- ministers and government backbenchers (often referred to collectively as ‘the government’) versus the Opposition;
- the government of the day (the prime minister and his or her ministers) versus the rest of parliament (the Opposition plus government backbenchers);
- all backbenchers versus the leaders of all parties;
- the leaders of a single party versus that party’s backbenchers (or some of them);
- tension between the lower house and the second chamber; and
- conflict between the government of the day in the second chamber and a majority opposition made up of the formal Opposition party/ies, minor parties and independents, who each bring their own interests to bear on a piece of legislation and vote independently of each other.

-You never know with some of the people, the Independents and Democrats, until the bells stop ringing in the Senate, which way they are going to go.'


There are also practical limitations on the capacity of a parliament to discharge its wide range of duties, which include the number of members available, the skills they bring to their houses, the advice and assistance they can call on, and the pressure of work in their electorates.

**Debate**

The number and complexity of matters that come to parliament’s attention have greatly increased, which means that there are more bills on a number of wide-ranging and complex
issues to debate. This reduces the time available for discussing any one question. Debate is also curtailed because more emphasis is placed on the need for rapid decisions at the expense of a more detailed consideration of affairs. Other problems relating to the management of parliamentary debate include:

- Should the elected representatives be allowed to talk as long as they please? If so, some may make long speeches merely to obstruct other members whose views they oppose or to delay the passage of legislation. (This is called *filibustering.*)
- Should everyone's views be heard? If that occurs often, the parliament would take an extremely long time in coming to decisions.
- Should most of parliament's business be conducted on the floor of the house, or should a good deal of it be divided among committees of members? The latter way allows several matters to be dealt with at once, but means that decisions will be taken by a small group of people rather than by the parliament as a whole.
- Should discussion centre on solving current and future problems, or should much of it concern past actions by the government?

**Legislation**

There are issues over the management of government legislation in the parliament:

- If the elected government is given full support so that it can deal with problems as rapidly as possible, is it likely to overlook certain questions or to ignore the wishes of parts of the community?
- Should criticisms of government actions be limited to obvious errors and oversights, or should there be a constant campaign on the part of opposition parties aimed at reducing the governing party's chances of re-election?
- Is the government entitled to keep its actions secret, perhaps for electoral reasons or to avoid creating uncertainty among the people? Or, as the government represents them, should citizens be told everything that the government does?

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**Why cabinet secrecy is necessary**

'Cabinet secrecy is associated with the principles of collective responsibility that hold that all cabinet ministers should support cabinet decisions, and the practical political advantages that governments achieve from maintaining a united front in public. Cabinet secrecy allows cabinet ministers to engage in full and frank discussion of differing views without the risk of the Cabinet appearing divided, and it ensures that no groups or individuals can benefit from advance knowledge of government policy.'


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A general answer to these questions might be that parliament should do each of these things at some time, depending on the circumstances.

The most significant issue relating to the significance of parliament as an institution with real political power, however, remains the tension that develops between those
who exercise executive power and those in the parliament who seek to question or challenge it. However, the executive does not necessarily enjoy a monopoly of power. The procedures followed within parliament influence the degree of control that party leaders exert over their backbenchers and, if those leaders are in government, over the parliament as a whole. This is the main reason why much discussion has centred on the workings of parliament. The power exercised by a particular party’s leaders will also depend to some extent on the manner in which that party controls those leaders. The factors that contribute to or constrain prime ministerial power are discussed in the next chapter.

We will now look at how the Australian parliamentary system operates in the context of these principles and practices of parliamentary government.

**AUSTRALIA’S PARLIAMENTARY SYSTEM**

The Australian parliamentary system began with the establishment of colonial Legislative Councils—the first, in New South Wales, was set up in 1824. In the beginning the councils comprised colonial officials appointed to advise the governor, but non-official and elected members were progressively added until responsible government was achieved in most colonies in the 1850s. Colonial legislatures consisted of two houses:

1. *Legislative Councils*—the upper house—remained, with their members nominated by the government or elected on a restricted franchise (that is, only those with a certain amount of property or level of income were allowed to vote).
2. *Legislative Assemblies* (called Houses of Assembly in Tasmania and South Australia) resembled the House of Commons in being the popularly elected chamber and the seat of the executive (cabinet), where the leader of the government was called the premier. Legislative Councils, although not hereditary chambers (as was the House of Lords until 1958), nevertheless represented the interests of property. It was considered proper for the councils each to act as a ‘house of review’ to protect that property against the democratic ‘excesses’ of the Legislative Assembly. There have consequently been regular clashes between lower and upper houses in the states, particularly when Labor governments have been in power and conservative parties have had control of the upper house.

The Queensland Legislative Council was abolished in 1922, and in the other states the councils have become more representative of the whole community. This does not necessarily mean that the tension between the houses has dissipated. In cases where the Opposition has control of the upper house, it can use its power to block government legislation. In recent years, minor parties holding the balance of power in the upper house of the NSW parliament created difficulties for both Labor and Coalition governments in passing legislation. The Iemma Labor government in 2008, as we can see from Table 5.3, did not have a majority in the Legislative Council.

Queensland, the Northern Territory and the Australian Capital Territory do not experience this difficulty, as they do not have upper houses.
The Australian Parliament

The Australian parliament has two houses: a House of Representatives and a Senate (that is, it is a bicameral legislature). Both houses are elected by universal suffrage and the minimum voting age is 18. The House of Representatives represents the people of the states in proportion to their population. The Senate represents the people of the states equally. The purpose of this design, adapted from the United States, was to ensure that laws had the support of representatives of a majority of states as well as a majority of the people. The House of Representatives is the house where government is formed by the party holding the majority of seats. The size of the houses and the distribution of their seats are determined as follows.

The Senate

All original states must have an equal number of senators:

<table>
<thead>
<tr>
<th>Period</th>
<th>Number per State</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1901–49</td>
<td>6 each</td>
<td>36</td>
</tr>
<tr>
<td>1949–84</td>
<td>10 each</td>
<td>60</td>
</tr>
<tr>
<td>From 1985</td>
<td>12 each</td>
<td>72</td>
</tr>
</tbody>
</table>

In addition, since 1975 the Northern Territory and the Australian Capital Territory have been allowed to elect two senators each.

Total membership of the Senate in 2008 was 76.

The House of Representatives

- Section 24 of the Constitution provides that the House of Representatives must be ‘as nearly as practicable’ twice the size of the Senate (the nexus provision).
- It also provides that original states must have a minimum number of five members; Tasmania and Western Australia are the only states to have been affected by this provision, and Tasmania still is.
The Constitution set the numbers for the first House of Representatives at 75. Representation has since increased to reflect population growth, within the constraints of the nexus, and the house now also includes two members from the Northern Territory and two from the Australian Capital Territory.

Total membership of the House of Representatives in 2008 was 150.

Seats in the House of Representatives are distributed according to the populations of the states, with the fastest growing states, Western Australia and Queensland, slowly increasing their numbers (see Table 5.4).

Women in parliament

In 1902 the Australian parliament passed the *Commonwealth Franchise Act* which gave women the right to vote and the right to stand for parliament. Despite many attempts, it was not until 1943 that the first woman was elected to the federal parliament. That position has gradually improved (see Table 5.5), particularly in the House of Representatives, but women are still very much in the minority in both houses of parliament, despite the fact that in June 2007 they made up 50.55 per cent of the population (see ABS 2007, ‘Population by Age and Sex, Australian States and Territories’, Cat no. 3201.0, June 2007, ABS, Canberra).

<p>| Composition of the House of Representatives, 1901–2008, by state and territory |</p>
<table>
<thead>
<tr>
<th>State/territory</th>
<th>1901</th>
<th>1949</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>New South Wales</td>
<td>26</td>
<td>47</td>
<td>49</td>
</tr>
<tr>
<td>Victoria</td>
<td>23</td>
<td>33</td>
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</tr>
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<td>10</td>
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<td>Western Australia</td>
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<tr>
<td>Tasmania</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Australian Capital Territory</td>
<td>—</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>—</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

<p>| Numbers of women in parliament, 1943–2008 |</p>
<table>
<thead>
<tr>
<th>Election year</th>
<th>House of Representatives</th>
<th>Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1943</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>1975</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>1996</td>
<td>23</td>
<td>22</td>
</tr>
<tr>
<td>2007</td>
<td>39</td>
<td>28*</td>
</tr>
</tbody>
</table>

(* From 1 July 2008, after senators who were elected at the November 2007 election had taken their seats.*)
PARLIAMENT HOUSE

Until 1927 the federal parliament met in Melbourne, but in that year it moved to its own building in Canberra in the Australian Capital Territory, which had been established specifically as the seat of national government. The original Parliament House in Canberra was intended only as a temporary structure, and it proved less and less suitable as the number of its parliamentarians almost doubled, and as staff numbers (particularly for ministers) also grew.

In 1974, after many years of indecision, it was resolved that a new Parliament House would be constructed on Capital Hill, behind the existing building. A design competition was held, and early in 1979 work began on the building. The new Parliament House was opened in Australia’s bicentenary celebrations by Queen Elizabeth II in May 1988, and the first sitting took place in August 1988.

Structure

Within Parliament House the two parliamentary chambers are situated on either side of the Members’ Hall; the Senate chamber, decorated in red after the style of the House of Lords, is to the right-hand side on entering, and the House of Representatives, in green on the pattern of the House of Commons, is to the left. In each case, the shading of the colours is now distinctively Australian. The layout is shown in Figure 5.1.
Seating arrangements

A simplified sketch of the floor plan of the chamber of the House of Representatives shows something of its workings and the close relationship of the political executive to that house (see Figure 5.2).

**Figure 5.2**

Floor plan of the House of Representatives, Canberra

(Source: Seating plan of the House of Representatives, chamber, 39th parliament, No. 5, 2 December 1998. Copyright Commonwealth of Australia, reproduced by permission)
THE REPRESENTATIVE FUNCTION OF MEMBERS OF THE AUSTRALIAN PARLIAMENT

Members of parliament divide their time between attending the parliament in Canberra and looking after their constituencies. Constituency work involves assisting people with their problems. Often the MP is the last resort for people who have not been able to get a favourable outcome from the relevant government department. The MP can make representations on behalf of the person to the department and also to the minister.

The representative role also involves attending many functions around the electorate and reporting to party meetings on what they have been doing. Both of these activities are important in helping to get the member re-elected. Members have to show the constituency that they are doing their job in an active way and are concerned about what is going on in the electorate.

At the same time, they have to keep the party happy, because party members will determine whether or not the member is selected to stand for the seat at the next election. This creates difficulties for members when party policy may not be appropriate to the particular electorate they represent. Examples might be a party policy to locate an airport in a particular district that is opposed by the residents, or the Howard Coalition government’s decision on the guns issue which caused difficulties for National Party MHRs in their rural constituencies. Cases like this present MPs with a no-win situation. They are criticised by the electorate for not responding to the wishes of their electorate. On the other hand, if they oppose party policy, they risk losing their party pre-selection.

Party discipline makes it difficult for MPs to vote against the policy of their party in the parliament. Those who do are marked as renegades and risk their parliamentary futures: even if they do retain their endorsement, they are unlikely to progress to the ministry. Members who resign from their party because of differences with their parties over policy sit on the cross benches as independents but are unlikely to get re-elected, as the preferential electoral system favours the major parties in the House of Representatives. There have been exceptions. Graeme Campbell, for example, who was disendorsed by the ALP because of his association with a right-wing group and his criticism of the prime minister, was re-elected in 1996 as an independent, but failed to retain his seat in 1998. Bob Katter resigned from the Nationals and successfully contested his seat as an independent at the 2001 federal election. He was re-elected in 2004 and again in 2007.

As the following figures show, MPs spend relatively little of their time in Canberra.

<table>
<thead>
<tr>
<th>Number of sitting days scheduled for 2008</th>
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<tbody>
<tr>
<td>House of Representatives</td>
</tr>
<tr>
<td>Senate</td>
</tr>
</tbody>
</table>
There is a mass exodus of parliamentarians from Canberra after a parliamentary sitting week, when members fly out to return to their electorates.

There have been arguments that the parliament should meet more often, particularly when bills are rushed through by the government at the end of a sitting using the guillotine (or time limit, as explained below) to curtail lengthy debate. When this happens, the representative function of considered debate on pieces of legislation becomes problematic.

**PROCEDURES IN THE HOUSE OF REPRESENTATIVES**

**The speaker**

The speaker supervises the business of the House of Representatives and presides over most of its discussions. Much of the tradition and dignity of the house centres on the role of the speaker. This includes an expectation that the duties of the office will be carried out in an impartial way.

"I think a Speaker needs a balance of strength and wisdom, and a recognition that you not only are there to see that the Government governs, but also that you give the Opposition a reasonable go. That’s the job of the Speaker."


This impartiality is sometimes difficult to achieve. The position of speaker is affected by party politics, as he or she:

- is chosen from among the governing party;
- is opposed at elections; and
- loses his or her office with a change of government.

As a consequence, the speaker continues to be involved in party matters, attends meetings and occasionally discusses issues in the media.

The Australian speaker is not seen as an absolutely impartial figure who has reached the high point of a parliamentary career, but rather as an arbiter who may favour his or her own government party in the last resort. The Opposition often feels it is disadvantaged by this process, particularly when the speaker rules against it.

"Despite all the calls for an independent speaker, both sides know that’s only a remote possibility; but a wounded Opposition forced to retreat to the House will be looking for a fair go—and so will the electorate."

(Source: Shanahan, D. 2004, ‘ALP’s only choice is to be positive’, The Australian, 29 October 2004)

In Australia, moreover, a speaker can go on to ministerial office. For example, Gordon Scholes, who served as speaker during the Whitlam years, became a minister in the Hawke government. This does not necessarily make the Australian system less effective, as the
speaker retains control of the house, with Opposition acceptance of his or her rulings. It
does mean, however, that the speaker’s office, and to some extent the role of parliament
itself, can be hard to distinguish from the continuing party contest.

There have been several attempts to deal with these problems. Sir Billy Snedden,
speaker during the Fraser government, for example, proposed that the speaker should
sever all links to a political party and be unopposed by the major parties at elections. A bal­
lot of Coalition government MHRs in 1980 showed that they favoured these proposals,
but there are major problems, and the government of whatever party feels better able to
control parliament when the speaker is drawn from within its ranks. It would probably
require an initiative of cabinet to change the present system, and that is unlikely.

Standing orders

*The House of Representatives Practice* provides a detailed account of the rules and context
ness of the house is conducted according to *Standing Orders* adapted from the House of
Commons by way of the colonial legislatures. They govern such things as the time allowed
for debate, the manner of asking a question and the behaviour of members. On a functional
level, they:

- allow the speaker little discretion, further weakening his or her role as a parliamentary
  figure;
- provide fewer opportunities for the business of *private members* (backbench members
  who do not belong to the party executives) than most would like; and
- give the government power to limit debate, to compel the hasty passage of legislation,
  and to restrict or avoid criticism.

The clerk of the house

The clerk is the senior administrative officer of the house, responsible to the speaker, with
a staff of officials to ensure that business proceeds smoothly. The clerk is usually appointed
after long service in the house and is the main source of advice on its procedures. Other
employees who sit at the centre table when the house is in session include the *Hansard*
reporters, who take a record of all proceedings. Parliamentary debates are printed very
rapidly for distribution and are later collected in large volumes. They are also available on

*Hansard* reports take their name from a British House of Commons reporter of the early
19th century.

Seating arrangements

The seating arrangement in the House of Representatives follows that of the House of
Commons, except that the benches facing the speaker are curved, rather than the rectangle
form of Westminster.

Since the formation of the main parties in Australia, a few independents have sat on the
cross benches in the House of Representatives. Historically it was rare for independents to
get elected, but two independents were elected in 1993, five in 1996, one in 1998, three in 2001 and 2004, and two in 2007.

The party leaders are on the front benches and the private members sit with their party colleagues on the back benches: hence the terms that are sometimes applied to these respective groups. Independents and members of minor parties sit on what are called the cross benches facing the speaker (even though that term does not fit the house’s seating arrangements).

The importance of the party executives is accentuated by the positioning of the prime minister and the leader of the Opposition at the centre table. This arrangement, together with the rows of opposing party members facing each other across the floor of the house, emphasises the fact that parliament contains the alternative government as well as the government of the day.

The Opposition

The Opposition has a special role, not only as the alternative government but as a constant check on government actions. The leader of the Opposition is recognised through a special salary, additional staff, and certain privileges in the house, such as being given precedence at question time, if required. The Opposition, through parliamentary procedures such as question time, Matters of Public Importance or Censure motions, enhances the role of the House of Representatives in the scrutiny of government actions. The fact that the government of the day has the majority in the House of Representatives means that such initiatives will not succeed in a formal sense. The Opposition’s effectiveness relies on how much embarrassment it can cause the government through media exposure of its actions in the parliament. This depends on the quality of its leadership, its morale, issues to provide it with avenues of attack, and the qualities of the party in power.

Procedures in the Senate

The Senate also has its ‘bible’—Odgers’ Australian Senate Practice (see http://www.aph.gov.au/Senate/pubs/odgers). The Senate differs somewhat from the House of Representatives:

- It elects a president rather than a speaker. Both perform similar functions; however, the president exercises a deliberative vote but not a casting vote, while the speaker has a casting vote but not a deliberative vote.

- The president of the Senate’s vote is counted with those of other senators whenever there is a division.
- The speaker of the House of Representatives does not vote with members, but has a casting vote only if the numbers are equal.
In such cases, the speaker by convention votes with the government. The president has no such casting vote.

If votes are equal in the Senate, the question is decided in the negative.

- Senate Standing Orders are slightly fewer than the Representatives, and its Procedure Committee has a majority of backbenchers, not members of the party executives.

The Senate has seen more independents and representatives of minor parties elected than the House of Representatives, particularly during the past 20 years. This is a result of the proportional voting system used for Senate elections.

Apart from its smaller size, the Senate has much the same seating arrangement as the House of Representatives. Senate party leaders sit in the chamber, as do a small number of ministers, but if the government of the day does not have a majority in the Senate, the executive is not as dominant in that house as it is in the House of Representatives.

Ministers in the Senate
In 2008, seven ministers and two parliamentary secretaries were senators and sat in the Senate.

Apart from answering for their own portfolios in that chamber, ministers in the Senate are responsible for representing those ministers who sit in the House of Representatives.

The party contest is somewhat different in the Senate, for the following reasons:
- Most of the senior party leaders are in the House of Representatives.
- Minor parties and independents have a significant role to play when they hold the balance of power, because the government needs to negotiate with them to obtain their votes to pass its legislation. Alternatively, the Opposition, minor parties and independents voting together can block government legislation.
- Senators’ statements and attitudes may be influenced by the knowledge that their chamber was intended to guard states’ interests and to act as a ‘house of review’. For example, Queensland Nationals’ senators abstained from voting with their Liberal Coalition partner on an issue related to the sugar industry in Queensland and, more recently under the Howard government, Queensland Nationals senator Barnaby Joyce crossed the floor to oppose Coalition bills. But, generally, party discipline prevails when it comes to voting.

Senators are elected for a six-year term, with half retiring every three years—except territory senators, who are elected for the life of the House of Representatives. Members of the House of Representatives must face election at least every three years (ss. 7, 13 and 28 of the Constitution). The electoral systems for the House of Representatives and the Senate are explained in Chapter 8.
In a hung Senate, a minor party can easily frustrate the intentions of a popularly elected government. (Source: Geoff Pryor, 19 October 1993, copyright Geoff Pryor)

**THE LEGISLATING FUNCTION**

Parliament spends a good deal of its time considering and passing laws. The number of bills passed by the parliament varies from year to year, depending on the government's agenda (see Table 5.6).

Most bills become Acts of parliament, but not all. Many of these bills amend existing legislation, some making only minor adjustments requiring little debate. Nevertheless, each piece of legislation is necessary to validate government action (such as establishing an authority to oversee construction of the new Parliament House) or to allow the government to alter existing arrangements (such as increasing welfare benefits or varying the rates of personal income tax). In each case, the necessary provisions, which may be set out in a few lines or require several hundred printed pages, are drawn up by lawyers (under the direction of parliamentary counsel) employed especially for that purpose. This is an obvious point at which the government of the day, rather than parliament as a whole, has the initiative.

**TABLE 5.6**

<table>
<thead>
<tr>
<th>Year</th>
<th>Bills passed by both houses</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997/98</td>
<td>183</td>
</tr>
<tr>
<td>2003/04</td>
<td>191</td>
</tr>
<tr>
<td>2006/07</td>
<td>207</td>
</tr>
</tbody>
</table>

(Source: The data in this table is sourced from various annual reports of the Department of the Senate and is reproduced by permission of the Department.)
All but a very small minority of bills are put forward by the government. In 2004, for example, eight private senator’s bills were introduced into the Senate, and eight private member’s bills were introduced into the House of Representatives. Scarcely any of these private member’s bills become law.

Bills to be introduced are listed, along with other business, on the Notice Paper of the House, which serves much as an agenda does for any meeting, and it is desirable that the proposed legislation be distributed to members well in advance, particularly in the case of important bills. Members sometimes complain that they are given too little time to absorb the often complex provisions they must consider.

**The progress of an Act of parliament through the House of Representatives and the Senate**

1. **Giving notice**: A minister wishing to introduce a bill gives written notice to the clerk of the house.
2. **First reading**: The bill is introduced by reading out its title; there is no debate at this stage. After a first reading, it is customary that the bill proceeds immediately to the second reading stage.
3. **Second reading**: At this stage the minister moves the second reading and makes a speech explaining the bill. Debate is then adjourned to allow members time to study the bill before speaking and voting on it. Alternatively, following the minister’s second reading speech, a bill may be referred to either a standing committee or to the Main Committee for further consideration.
4. **Report stage**: Bills that have been referred to a standing committee or to the Main Committee are reported back to the House of Representatives, where they are considered and voted on.
5. **Third reading**: This is mainly a formal stage, at which the house is asked to agree to the bill as a whole; there is rarely debate.


**The Main Committee**

In 1994 the House of Representatives made a significant change to its procedures with the creation of the Main Committee. This is essentially a debating committee, which operates as an extension of the chamber to allow two streams of business to be debated concurrently. The intention of establishing the committee was to give members extra opportunities to speak on non-controversial and unopposed bills or reports, which are referred on agreement between government and non-government members, and to free the chamber for debate on other matters.

All members of the House of Representatives are members of the Main Committee and eligible to participate in its proceedings. The chair of the committee is the deputy speaker. The Main Committee undertakes a more limited range of business, specifically the second reading and consideration of detailed stages of bills, the debate of committee and delegation reports, and the debate of papers presented to the house. The committee can debate and resolve motions and process bills through the relevant stages, including making amendments, but any decision it makes has to be confirmed by the house.

The bill does not become law following the third reading stage. Further steps are necessary:

- The bill must be sent to the Senate for consideration. Most bills, including all money bills, are introduced in the House of Representatives, and so the flow of legislation is more often from the house to the Senate than in the other direction.
- The Senate may debate and pass the bill, according to the steps outlined above, without amendments, in which case the bill may then go from the originating house to the governor-general for assent. In the Senate many bills are examined thoroughly in the committee stage for detailed consideration and may be extensively amended, particularly if the government of the day does not have a majority in the Senate. The Workplace Relations Bill 1996, for example, was passed with 180 amendments.
- The Senate may propose amendments to the bill. (Note that the Senate cannot amend certain kinds of money bills, under s. 53 of the Constitution, but it can request amendments and refuse to pass them, as it did in 1975.) In that case, messages are exchanged between the houses until agreement has been reached; or, if agreement is not possible, the bill may be ‘laid aside’.

If the government wants to proceed with a bill following repeated disagreement between the two houses, the double dissolution provisions of s. 57 of the Constitution may be brought into effect (see Chapter 3).

Once a bill has passed both houses, it is forwarded to the governor-general for royal assent. Its commencement as law is notified in the Government Gazette.

All regulations and bills that go before parliament are scrutinised to make sure they conform with principles of civil liberties by:

- the Senate Scrutiny of Bills Committee, which examines proposed laws before they are debated in the Senate; and
- the Senate Standing Committee on Regulations and Ordinances, which checks all delegated legislation.

**Problems in legislating**

As we saw above, the business of making laws is complicated by tensions between parliament and the executive, and by party rivalries. These are particularly apparent at the second reading and committee stages, and in the total time allowed for the passage of a bill.

The minister (or his or her representative in the other house) outlines the merits of the bill, and is answered by the shadow minister from the Opposition (or his or her representative in the other house). They are followed by government and Opposition members alternately. The order of speakers is usually arranged in advance and each has a limited time, determined by Standing Orders, in which to deliver a speech. This process need not be particularly illuminating, however, for the reasons set out below:

- The minister is not compelled to set out all the provisions of the bill, nor even to state a detailed case in support of it.
- Both government and Opposition speakers are inclined to overstatement in an effort to secure party political advantage, and their exchanges can develop into a ritual during which neither side takes the other’s arguments seriously (although debate on issues that have bipartisan support is likely to be more useful in examining the detail and implications of the policy).
Some speakers are relatively uninformed and tend to repeat the substance of the earlier speeches.

Modern legislation sometimes contains complexities that cannot be dealt with in a 20-minute speech; consequently, some statements may be relatively superficial while others may concentrate on certain details, ignoring other important aspects of a bill.

Bills may be introduced and then rushed through by the government so that Members and Senators are not given much time to consider or debate the legislation before it is passed through the parliament.

Limiting debate

In ensuring that its business is dealt with, the government of the day has power under Standing Orders to limit debate. Two main tactics can be used:

1. the ‘gag’, under which debate is cut short by the passage of a motion that ‘the question now be put’; the house then moves on to the next item of business; and
2. the ‘guillotine’, when a time limit is imposed on parliamentary debate at the outset of each stage of a bill (for example, that the second reading stage be completed by a certain time, and so on).

These devices are usually employed when the government and Opposition are contesting a matter more strongly than usual, or when there is a rush to clear legislation before parliament goes into recess. As the government ‘has the numbers’ in the House of Representatives and the motions themselves cannot be debated, both tactics bring a speedy end to debate and usually lead to accusations that the government is ignoring or dictating to parliament. This is simply the most obvious procedural example of the continuing tension between parliament’s ‘discussing’ and ‘acting’ functions in the House of Representatives.

The same thing happens in state parliaments.

This situation does not always apply in the Senate. If the government does not have a majority, the Opposition senators can vote together to extend or limit debate, even if the government does not agree. This occurred in 1992, when time limits were imposed on questions without notice to prevent questioners and ministers from speaking too long on a particular matter. The aim was to allow time for more questions to be put to ministers. The government and Opposition senators can also combine to gag debate to prevent the minor parties and independents from speaking.
Supporting the legislative function
For parliamentarians to take part adequately in the legislative function they need support staff to provide information about the matters under discussion. Some of this information may be provided by each MP's research assistant (one of the staff members provided for each parliamentarian), but much of it is provided by parliamentary staff. The Department of Parliamentary Services provides members with access to a specialised library, as well as providing information and specialist advice on request to individual parliamentarians.

The budget
One of the main reasons that parliament was first summoned by the British monarchs was to raise money for the business of government, especially for war. As parliament gained power, the Crown's ministers, rather than the Crown, secured the initiative in determining the amount of money to be raised through taxes and loans and the manner in which it was to be spent. From the early 18th century, additional steps were taken to ensure closer control of finance: money was supplied by parliament annually, rather than being levied on behalf of the government for years at a time; estimates setting out proposed needs and expenditure had to be presented; the government was required to account annually for the money granted to it; money could be used only for specified purposes, and not transferred to whichever project the government wished to undertake; and committees of parliament could examine the government's accounts and investigate its efficiency in using the resources supplied to it. Three other developments were involved:

1 The House of Lords lost virtually all power over financial matters in 1911.
2 As the national economy grew more complex, and as government came to take a larger share in managing it, so the annual budget exercised increasing influence over economic activity.
3 Consequently, the annual budget embraces a number of steps that occupy several weeks of parliament's time, and usually attracts more public attention than any other item of business.

Senate Estimates committees
The Australian parliament adopted the budgetary process, like so much else, from the Commons by way of the colonial legislatures, but there are important differences. For many years the Australian legislature lacked the Estimates committees, through which the Commons examines the details of the government's spending proposals. Ironically it was the Senate, which lacks the power to originate money bills, which established Senate Estimates committees in 1970. Each was responsible for checking the budgets of several departments of the Australian Public Service, although it should be remembered that the departments are responsible for less than half of the government's spending. In 1994 the functions of the Estimates committees were taken over by Senate Legislation committees. These committees have been effective in probing the details of government expenditure. This means that the Senate, when not controlled by the party in government, can be effective in maintaining scrutiny of the executive by the parliament.

House of Representatives Estimates committees
After a good deal of pressure from its backbench members, the Fraser government in 1979 agreed reluctantly to set up two Estimates committees for the House of Representatives,
increasing the number to six in 1981. The Estimates committees had only limited powers, but opposition to them from within the executive remained strong, and in 1982 the estimates were not referred to the committees. The Hawke government, after its election in 1983, did not re-establish house Estimates committees.

Limitations on the financial powers of the House of Representatives

The House of Representatives' financial powers are limited in other respects:

- The Senate retains the power to request amendments to any financial measures that it cannot itself amend and to reject the whole of the money bill (s. 53 of the Constitution).
- A proportion of Commonwealth money, such as GST revenue, is paid to the states where it is disposed of according to the wishes of state governments, rather than of the federal authorities. This is related to the Commonwealth's gaining exclusive control over income tax (see Chapter 3).
- The raising and allocating of loan moneys is determined by the Loan Council. The Commonwealth has usually dominated this body, but through its senior ministers (the executive) and not through parliament.

Nevertheless, the financial initiative rests with the Commonwealth; and with its cabinet, rather than with parliament as a whole.

The budget process

The financial year in Australia is from 1 July to 30 June. The budget is usually introduced into parliament in May, but it can also be delivered at other times if it is necessary to do so.

<table>
<thead>
<tr>
<th>Stages in the budgetary process for a May budget</th>
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<tbody>
<tr>
<td>1 July</td>
</tr>
<tr>
<td>October/November</td>
</tr>
<tr>
<td>May</td>
</tr>
<tr>
<td>30 June</td>
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</tbody>
</table>

The budget itself comprises a statement by the treasurer (the budget statement and papers can be found at http://www.budget.gov.au) concerning the national accounts and economy and several bills to give effect to the year’s financial program; bills to alter taxes and charges if the government so decides; schedules of payments to the states and to local government; measures for raising loans; reports on the previous year’s performance; and a series of statistics and calculations setting out the state of the economy (as seen by the government and its advisers) and likely changes in it. (It was the Senate’s deferral of the appropriation bills which threatened to leave the government without money that led to the withdrawal of Gough Whitlam’s commission as prime minister in November 1975.)

In addition to the budget, many other items of legislation involving the raising and spending of money are required—changes in subsidies, grants, salaries, welfare provisions, tariffs, and many other matters that are best dealt with separately or which have to be adjusted in a manner not foreseen at the time the budget was introduced. Indeed, when the budget has produced unanticipated results—loss of ‘business confidence’ or higher than expected rates of inflation and unemployment—supplementary adjustments are needed later in the financial year. Such additional changes, if required, are called a ‘mini-budget’, with the more formal title of ‘economic statement’.

All money bills are introduced by ministers. (The constitutional possibility that a private member might present a money bill has been effectively ruled out by Standing Orders and convention.) Private members are further restricted in that they cannot introduce amendments that would increase the financial provisions of a money bill. Moreover, the public accounts and estimates have grown increasingly complex, and few backbenchers have the expertise or resources to unravel them completely. Debate on financial matters is consequently directed much more at the motives underlying government spending than at the money allocations themselves. Speeches of the former kind are usually predictable in party terms, and so at the second reading stage financial measures are rarely subjected to the detailed, disinterested examination that is essential in ensuring that money is being used carefully and effectively.

Debate on most money bills, as on ordinary legislation, should be ‘relevant’; that is, it may touch on related matters, propose alternative measures and so on, but should not stray from the central concern of the bill. It can be hard to determine whether debate meets these conditions, although the field that a speech may cover will vary according to the breadth of the provisions in the bill under discussion. There is, however, a major exception to the rule of relevancy in financial debates. The budget debate, following the treasurer’s introductory speech, can cover a very wide field indeed, acting much as a review and critique of the government’s performance. (Other exceptions to the rule of relevancy are discussed later in this chapter.)

At the committee stage of money bills (including the budget legislation), Opposition motions can be moved to reduce the amounts allocated for specific purposes. In the House of Representatives this is not usually successful, because the fact that the government has the majority ensures that the initiative remains with the political executive.

THE SENATE AND MONEY BILLS

The situation in the Senate is different. Section 53 of the Constitution prevents the Senate from moving amendments to ‘proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government’,
commonly called ‘supply’. The Senate may request the House of Representatives to make an amendment to such bills. It may also defer voting or vote against ‘supply’. This happened, most famously, in 1975 and led ultimately to the dismissal of the Whitlam government.

**Money bills and supply**

- The term “supply” may be loosely applied to all of the annual appropriation bills . . . that provide the funds necessary for government to operate.
- “Money bills”: may be used to refer to all bills which appropriate money.

(Source: Evans, H. (ed.) 2001, Odners’ Australian Senate Practice, 10th ed., Department of the Senate, Canberra, pp. 295-96)

This provision does not prevent the Senate from defeating money bills. In 1995, for example, the Opposition, the Australian Democrats, The Greens (WA) and independent Brian Harradine combined in the Senate to defeat a government bill to impose sales tax on building supplies.

**INVESTIGATING EXPENDITURE FUNCTION**

Detailed examination of government spending by the Australian parliament commenced at Federation with the appointment of the auditor-general in 1901, and that officer has reported to parliament annually on the government’s accounts. Initially these examinations covered only the accuracy and probity of those accounts, but since 1975 the Australian National Audit Office has also examined departments and certain government agencies in terms of their economy, efficiency and effectiveness in implementing government policy and expending public funds (for further information about these activities, see the Australian National Audit Office, http://www.anao.gov.au).

Direct parliamentary scrutiny of government expenditure commenced in 1913 with the establishment of two joint parliamentary committees—for public works and government accounts—each comprising a small number of both members of the House of Representatives and senators.

The Public Works Committee, a joint committee administered by the House of Representatives, examines proposals for expenditure on major works and reports to parliament on the expediency of carrying out each proposal, in terms of criteria such as its purpose, suitability, necessity, and the effectiveness of the proposed method of construction (for further information about its membership and activities, see the Parliamentary Standing Committee on Public Works, http://www.aph.gov.au/house/committee/pwc).

The Public Accounts and Audit Committee, a joint committee administered by the House of Representatives, examines departmental administration and management in terms of efficiency, effectiveness and economy, and has played a valuable role in achieving and sustaining higher standards of public administration. (For further information about the membership and activities of this committee, see the Joint Committee of Public Accounts and Audit, http://www.aph.gov.au/house/committee/jpaa).
THE ‘SCRUTINY’ FUNCTION OF PARLIAMENT

Parliament has several ways of scrutinising government actions that fall into two groups:

1 Procedures on the floor of the house—questions, replies to government statements and speeches, special debates and expression of grievances. These are usually affected by party considerations, but can still be seen as part of parliament’s effort to make the government answerable to the electorate; and

2 Investigations by various committees appointed by parliament from among its members.
   These can be less partisan, more detailed and therefore less publicised than house proceedings, but they can subject governments to considerable pressure if conducted properly.

Procedures in the house

Question time

Question time is one of the first items of each day’s business, and is broadcast from both houses daily. The duration of question time in the House of Representatives is up to the prime minister, but it has usually occupied at least 45 minutes. The duration of question time in the Senate is controlled by the leader of the house (a government minister), but it usually occupies about 60 minutes. Attempts by the government of the day to cut short question time have attracted a lot of public criticism.

Question time has two useful functions:

1 Media coverage of the proceedings provides the Opposition with the opportunity to attract public attention to particular issues and to expose deficiencies in the policies and activities of government. In recent years, government ministers have resigned from the ministry following sustained questioning in both houses and resultant media coverage of their ‘indiscretions’ and mistakes.

2 It allows the Opposition and backbenchers to elicit information from the executive, and in the process to make it answerable for its actions. In that respect, the procedure has been less than successful.

Questions without notice

The most noteworthy questions in the parliament are usually those presented without notice for a minister’s oral answer (as compared with those put on notice in writing, which appear, with their answers, only in Hansard and consequently attract less attention).

Questions without notice are asked alternately from each side of the house, although the leader of the Opposition may, but rarely does, ask a follow-up question. The Senate has a practice of allowing supplementary questions, directly related to the previous question, at the discretion of the chair, and senators take full advantage of this to probe the government on a particular issue. The same prerogative is allowed the speaker of the House of Representatives, but is rarely exercised.

Each question must meet several requirements set out in Standing Orders; for example, it must refer to a matter with which the minister is officially involved, and must not put forward arguments or suggest hypothetical circumstances. Even so, the minister is not obliged to answer a question.
The prime minister receives about a quarter of all questions asked in the House of Representatives. The leader and deputy leader of the Opposition ask many more questions than any other MP.

**Limits to the effectiveness of question time**

- Ministers may attempt to evade a question, plead ignorance, or use the occasion to launch an attack on the Opposition; this is good party politics, but it subverts the supposed purpose of question time.
- In the absence of regular supplementary questions in the House of Representatives, it is difficult for the Opposition to coordinate its efforts if it wishes to exploit what it sees as a government weakness. This can prove difficult also because members may want to pursue different issues or ask questions relating to their own electorates rather than national affairs. Alternate questions from government members can relieve the pressure on the minister. Supplementary questions in the Senate provide more scope for the Opposition, minor parties and independents to probe a weakness.
- 'Dorothy Dix' questions, where government backbenchers ask pre-arranged questions that allow the minister to praise the government or exploit a weakness in the Opposition, are in effect occasions for ministerial speeches rather than for parliamentary criticism and scrutiny of the executive (see Figure 5.4).

'Dorothy Dixers' i.e., questions prepared by the Government, which invite answers favourable to the Government.'

'Outrageous behaviour leading to "sin-binning", accusatory statements masquerading as questions, replies that do not answer attacks on political opponents claiming to be answers to questions ... Is it any wonder that Question Time is questioned as an accountability mechanism?'

The questioning procedures in the Australian parliament provide fewer opportunities for scrutiny, criticism and putting pressure on the executive than might be supposed.

**Debates on statements and reports**

One of the means for making the executive responsible to parliament is to have ministers report on accomplishments, policies and future problems to their house. A *ministerial statement* is usually accorded high priority, being delivered just after question time and followed then, or on a later occasion, by speeches from Opposition and government members setting out their views on what the minister has said.

The government may also present a *Green Paper* to parliament, which reviews policies or discusses alternatives in detail. The responsible minister speaks about the paper, and a
full debate on it follows at an appropriate time. Following the debate and consultation, the government issues a *White Paper*, which outlines the government’s final choice of policies.

- **A Green Paper** is a discussion document, setting out ‘the government’s thinking’ on a particular issue.
- Following consultation and consideration of written submissions on the Green Paper, a formal statement of government policy is issued in the form of a *White Paper*.

This process does not necessarily indicate a government’s willingness to submit itself to examination and criticism by parliament, because:

- ministerial statements and government papers are fairly rare in the Australian parliament; certainly, they are a good deal less common in Canberra than at Westminster;
- the government is in no way obliged to change policies or take action in response to parliamentary debate on statements and papers; and
- the debate in the community at large is more important than the debate in parliament in determining the outcome.

Information that is presented in this way is more likely to be a government self-advertisement than an invitation to open debate; and so it often attracts a purely partisan response, which may deal with the substantive issues only incidentally.
‘Open’ debate

There are several ways in which members may speak on matters reflecting on the government, or of special interest to them or their constituents, without having to observe the more stringent rules of relevance applicable to debates on legislation. These include:

- **Debate on the Address in Reply:** Each new parliament is opened by the governor-general, who reads a speech that sets out the government’s program. This is followed by an address expressing loyalty to the Crown, and the debate on the motion that this be agreed to is the occasion for wide-ranging speeches that usually occupy several sitting days.

- **Budget debate:** There is an annual debate on the government’s budget, discussed in depth earlier in this chapter, which provides backbenchers with the opportunity to speak on matters of their own choice.

- **Adjournment debate:** This procedure allows backbenchers in both the House of Representatives and the Senate to make short speeches on almost any matter before the house adjourns for the day. Opposition and government members, who speak alternately, use this opportunity to raise individual or constituency issues. These speeches are often delivered to only a few members in the chamber and generally attract little attention.

- **Private Members’ Mondays:** A period of time on Mondays is set aside in the House of Representatives to allow backbenchers to move private member’s motions and bills, to make statements about a wide range of issues, to present petitions, and to participate in the Grievance Debate, where members have 10 minutes to raise any matter of interest or complaints from constituents.


As with most aspects of the functioning of parliament, opinions about the usefulness of ‘open’ debates will vary according to notions of what they should accomplish. They act as a safety valve and a means for backbenchers to gain mention in the local newspapers, but they are rarely successful in subjecting the government to notable or sustained pressure on its policies and actions.

Debate on special motions

There are two ways in which parliament (in effect, the Opposition) can subject the government to pressure on a particular issue:

1. **Matters of public importance:** Sometimes called an urgency motion, this concerns a current issue that is potentially embarrassing to the government, and the motion amounts to a challenge which is usually accepted, lest the government be thought to lack strength and confidence.

2. **‘No-confidence’ motion:** This is considered the most serious motion that can be moved against a government, although it always produces no more than a debate of a predictably partisan nature. It is often moved against an individual minister. Such a motion, if carried in the House of Representatives, would lead to the resignation of the minister concerned. This is not likely to happen, because the government has the majority in the lower house.
Censure motions, on the other hand, may be carried in the Senate should the government not have the majority. However, because governments are formed in the House of Representatives, there is no obligation on the part of the government to take any notice of a Senate censure. The government would respond only if the issue caused political embarrassment and was likely to affect its standing with the electorate.

**Australian PM censured over Iraq**

In October 2003 the Australian Senate passed a no-confidence motion against the prime minister over his handling of the crisis in Iraq. The vote reflected the majority opinion of the Opposition and minor parties in the Senate, but could be ignored by the prime minister because he sits in the House of Representatives.

Both of these motions may be moved by the government against the Opposition, although that happens infrequently. In either case, the initiative comes from party leaders rather than backbenchers.

Questions, debates on statements and papers, ‘open’ debates and special motions all seem to promise ample scope for parliament to gain information, express grievances and criticise governments. However, the procedures used in the Australian parliament leave governments with by far the greatest share of power.

The greatest potential for scrutiny and challenge lies with the Senate, but even here the executive is dominant. The Westminster principle that government is formed in the lower house, and is responsible to that house, means the government who sits in the House of Representatives does not have to respond to any initiatives or directives emanating from the Senate. As we have seen with censure motions, whether it chooses to respond or not is determined usually by the political sensitivity of the matter and the potential for electoral damage should the Senate be ignored. Those who would like to see a more even contest between parliament and the executive have tended to look to parliamentary committees to strike a more even balance.

**Committees of the parliament**

The Australian parliament has established different kinds of committees, within which there are various sub-groups (see Table 5.7). The first distinction to be made is between:

- House of Representatives committees;
- Senate committees; and
- joint committees, comprising members from both the House of Representatives and the Senate.

A further distinction can be made between:

- standing committees (House of Representatives, Senate and joint committees), which are appointed at the beginning of each parliament to perform a particular function during the life of that parliament. These can be divided into two sub-groups: committees set up under Standing Orders or by a resolution of a house; and committees set up by law (statutory committees); and
- select committees (House of Representatives, Senate and joint committees), which are appointed to investigate and report on a specific matter, whereupon they disband.
Parliamentary committees have the same powers as the parliament: to conduct inquiries; to call witnesses to give evidence; and to punish anyone who misleads or lies to a committee. Committees also have the right of parliamentary privilege, which guarantees freedom of speech in committee proceedings because members or witnesses cannot be prosecuted for what they say at a committee hearing.

Each of the political parties also has a number of party committees organised within the parliament. These committees have an impact on the passage of legislation. They form an effective link between ministers or shadow ministers and those in their respective parties who are interested in particular policy fields.
Standing committees
The basic group of standing committees was set up by each house to deal with its internal matters—procedure, privileges, publications, and so on. These are usually termed 'domestic' standing committees. Most have interests in common with the counterpart committee in the other house, with which they confer regularly.

The House of Representatives' standing committees are based around the major areas of government activity. Their function is to inquire into and report on any matters referred to them by the house or a minister, such as bills, motions, petitions or reports, including annual reports of departments and statutory authorities.

In September 2006 the Howard government restructured the Senate committee system by combining what had been separate legislation and reference committees. Each of the new standing committees has eight members: four nominated by the leader of the government in the Senate, three nominated by the leader of the Opposition in the Senate, and one nominated by minority groups and independent senators. The chair of each committee is a government senator. The Howard government instituted these changes because, it argued, it was more efficient and would avoid duplication.

Joint committees
These comprise members from both the House of Representatives and the Senate and are established to examine issues where there is considered to be a commonality of interest between the houses. They may be statutory, select or standing committees. Joint committees are chaired by a government member or senator and have government majorities. The Joint Committee on Public Accounts and Audit, because of its scrutiny of government finance, is potentially the most influential.

Select committees
Examples of Senate select committees include an inquiry into the 'children overboard' incident and the issue of drugs in sport, while House of Representatives select committees have examined specific learning difficulties and tourism. Senate committees were more widely used when the Opposition and minor parties and/or independents used their combined Senate majority to establish inquiries in a number of areas with the potential to expose government weakness and poor performance. After 1 July 2005, when senators elected at the October 2004 election took their seats, the Howard government used its majority in the Senate to prevent the establishment of select committees. The Rudd government cannot do this because, since 1 July 2008, the balance of power in the Senate has been held by minor parties and an independent senator.

The problems of committees
There are major problems associated with effective parliamentary committee work:

- Chairing a committee may not be an avenue for promotion into the ministry and may even be a disadvantage, because effective committees may need to be critical of the government of the day—that is, the chair's own party.
- There are too few parliamentarians for the many committee places that must now be filled. Most senators sit on about three committees, while MHRs sit on one.
- Committee reports are tabled in parliament, but are not binding on the government.
The committee details set out above disclose another problem—duplication of effort. The Joint Committee on Public Accounts and Audit and the various Senate committees overlap to a degree, as do the Joint and Senate committees on Foreign Affairs, Defence and Trade.

This reflects other difficulties: the reluctance of governments to make use of committees according to a comprehensive plan, the continuous party rivalry, and the tension between the Senate and the government. As governments are wary of possible challenges to their control of parliament, committees have been established as much as a result of agitation by groups of senators and MHRs as of government actions—particularly, as noted above, on those occasions in the Senate when the government did not command a majority.

In 1998, the Opposition, minor parties and independents in the Senate voted together to establish a committee to examine the Goods and Services Tax proposed by the Howard government.

The committee system in Canberra has evolved from political factors, as well as from the desire to secure more effective parliamentary scrutiny of the executive, and this has led to uncertainty about the objectives of the system itself.

It is often assumed that parliamentary committees can provide effective checks on government. There is a strong body of opinion among backbenchers and students of parliament that committees should be stronger and more comprehensive in their concerns (extending to the committee stage of legislation, for example). This seems sensible: if one of parliament’s main functions is to counterbalance the power of governments, and this proves difficult through debates, questions and similar procedures, then an extended committee system may appear essential. However, the Senate already has a wide range of committees and in both houses there is a problem of members finding sufficient time for committee work. The answer probably lies in rationalising the committee system and extending their powers, rather than in establishing more of them.

This has implications for a more general consideration: the notion developed within the Westminster system which suggests that parliament should not usurp the authority of the executive. An effective committee system, under this premise, would have to maintain a fine distinction between scrutinising the details of government actions and dictating them. This need not be the case. It depends on how the particular parliamentary committee system is structured and how much power it is given, as the following discussion on the activities of the Senate as a house of review reveals.

**THE SENATE AS A HOUSE OF REVIEW**

If the House of Representatives provides relatively ineffectual checks on government because its party is in the majority, then it may seem appropriate for the second chamber to act as a ‘house of review’.

**The review process**

The Senate can act as a ‘house of review’ by:

- delaying legislation—this can provide greater opportunity for detailed consideration of a particular issue;
• representing minority interests—the Senate does this better than the House of Representa­
tives because the proportional system of voting provides minor parties and independents
with more opportunity to gain representation;
• providing a forum for wide-ranging debate—the Senate has occasionally engaged in
longer debates than the Representatives, but that does not necessarily mean that it has
discussed questions in greater depth;
• the Senate committee system—this provides an opportunity for greater examination
and wide-ranging debate of issues that are the subject of inquiry;
• producing better legislation through rigorous examination of bills—this function could
be performed equally well in the Representatives through a comprehensive and effec­
tive committee system; and
• the continuing scrutiny of governmen

As was pointed out in Chapter 3, the Senate, as the 'states' house', was intended to
perform this function by acting to protect the interests of the states against encroach­
ment or domination by the Commonwealth. As we have seen, however, the party sys­
tem has become the dominant factor, and senators respond more to party loyalty than
to loyalty to their respective states.

Vestiges of the original idea of the Senate as a states' house are more likely to surface
within the party rooms than in the Senate itself. The equal representation of states in the
Senate means that in the party rooms the smaller states have a larger representation than
they would have if based strictly on population. This does not mean that they can persuade
their party to take any notice of the concerns of a state if the majority of the party dis­
agrees, nor are they likely to put aside party policy if it is at variance with the attitude of
the state government. For example, Tasmanian Labor senators voted with the government
to support Commonwealth action to protect gay rights in Tasmania against the wishes of
the Tasmanian government.

Occasions when senators depart from the 'party line' to defend the interests of their
particular state are rare, although not unknown. Queensland Nationals' senators abstained
from voting with their party on an issue that they considered would have an adverse effect
on the Queensland sugar industry, and Queensland Nationals senator Barnaby Joyce
voted against Coalition legislation in the Senate several times during the Howard govern­
ment's fourth term.

Party considerations also affect the Senate's capacity to act as a house of review on a
scale wider than mere state loyalties. When the party or coalition in government pos­
sesses a Senate majority, it tries to ensure that the Senate does little more than endorse
measures passed by the Representatives. Under these circumstances there are accusa­
tions that rather than acting as a house of review, the Senate is a mere 'rubber stamp' for
the executive.

The situation is different when the government lacks a majority in the Senate. A hostile
majority can use the Senate's considerable powers under the Constitution to block govern­
ment measures, or delay legislation by referring it to a Senate committee. When this hap­
pens, there are accusations from the government of the day that the Senate is acting as a
house of obstruction rather than review.
Some people, on the other hand, regard this to be healthy—a democratic check on what might otherwise be an overbearing executive.

The government often controlled the Senate until the method of election was changed to proportional representation in 1949. This is a system designed to allocate seats in proportion to shares of votes. (For a detailed discussion of this system of voting, see Chapter 8.) This factor, combined with the development of significant minor parties since the mid-1950s, has seen occasions where independents and minor party members have held the balance of power in the Senate. When this happens, the government is forced to negotiate the passage of contentious legislation, often compromising and accepting amendments to the bill in the process.

The first occasion on which this occurred was between 1967 and 1972, when the balance of power was held by independent and Democratic Labor Party (DLP) senators. The
same was true between 1972 and 1974, for the first Whitlam government, when the hostile majority saw the defeat of a considerable amount of government legislation. After the May 1974 elections the DLP lost all of its Senate seats, but the Coalition retained sufficient votes to block many of the government's bills.

"In the first 71 years of the Senate's existence, it had rejected a total of only 68 government bills. During our three years alone, it rejected 93."

The Coalition senators used their numbers to defer the appropriation bills in late 1975, and so provided the main grounds for the dismissal of the Whitlam government by the governor-general.

"The decision was taken (by the Opposition shadow cabinet) that the Senate would seek to delay the passing of the two Appropriation Bills until the Government agreed to an election."

From 1975 until 1981 the Fraser Coalition government held a comfortable Senate majority, which proved almost as amenable to the government’s wishes as did the Coalition’s supporters in the House of Representatives.

For 24 years, between 1 July 1981 and 30 June 2005, successive Australian governments operated under the constraints of not having a Senate majority. This meant they had to gain the support of the minor parties and/or independents who held the balance of power in order to get their legislation passed by the Senate. This changed after 1 July 2005 when the Howard Coalition government held a majority in both houses, which meant it could pass its legislation unimpeded through the parliament.

"That will mean no inquiry can be set up that the Government doesn’t like, and no amendment can be passed, no amendment to any legislation, unless the Government agrees in the Senate. That will make it much harder to hold the Government to account to reveal some of its behaviour, some of its flaws."

The Howard government used its Senate majority to restrict the capacity of the Opposition and minor parties to question and challenge the government; that is, to limit parliamentary scrutiny of the executive, in the following ways:

- It changed the allocation of questions without notice to give Coalition senators extra questions at the expense of the Opposition and minor parties.
The number of questions on notice that remained unanswered at the end of a parliametary session increased.

The government used the gag and the guillotine to cut off debate and force its legislation through the parliament, thus reducing the time available for comment and scrutiny from the Opposition.

It used its majority to block motions for Senate select committees that might have caused it political embarrassment.

From 1 July 2008, political control of the balance of power in the Senate returned to the minor parties and an independent senator, which means that the Rudd government, elected in November 2007, has to negotiate, and possibly compromise on its legislation, with these senators in order to get contested bills through the Senate.

With a government majority, there is little reason to expect that the Senate will play a distinctively constructive role in the Australian parliamentary system. When the government does not have a majority, the potential is there for constructive criticism of government actions, provided the balance of power is exercised in a responsible manner and not merely for the sake of party political advantage. Without that element of responsibility, if the government lacks a majority in the Senate, the prospect remains for continuing clashes between the Senate and the House of Representatives, including the threat to supply of the government, engendering what some would regard as unstable government.

'I was determined to assert the equally fundamental principle that a government having the confidence of the House of Representatives cannot be forced to dissolve at the whim or behest of senators who themselves need not face the electors.'


Defenders of the Senate would see this as the Senate exercising its rights and duties under the Constitution.

'A government with this power would soon turn its attention to legislation to perpetuate itself in office and reduce its accountability.'


The fact that the Senate functions as a party house, however, leads to criticisms that it is blocking government legislation for reasons related to party politics, rather than reviewing legislation on its merits. This has implications for the effective working of majority party government formed in the House of Representatives, which is the basis of the Australian system of government. A majority made up of votes from the Opposition, minor parties and independents in the Senate, which can block or amend legislation, creates frustration for governments that argue they have a ‘mandate’ to implement their election promises through the legislative processes of the parliament. Some would argue that the government, with the
majority of seats in the House of Representatives, should be able to govern without that impediment. Others maintain that the parties and independents in the Senate also have their own mandate to review legislation and can provide a useful check on the excesses of the executive, in keeping with the principles of checks and balances characteristic of a liberal democracy.

**Mandate:** 'a term used to describe the legitimacy of individual members of parliament, validated by popular support, expressed during elections'.


This tension between the conventions of the Westminster system of cabinet government and the powers given to the Senate under the provisions of the Australian Constitution is one of the legacies of the founding fathers that some would like to see remedied. Others consider it to be a healthy check on the executive that should be retained.

**QUESTIONS FOR DISCUSSION**

1. Why do people have such a poor opinion of parliament and parliamentarians?
2. What are the impediments to the scrutiny function of the House of Representatives, and how can this function be improved?
3. Can the Senate be effective as a house of review?
4. Should the Senate be able to block government legislation and, in particular, supply?
5. Parliamentary committees are useful 'watchdogs' of the executive. Discuss.
6. Does it hinder or enhance Australian democracy when minor parties and/or independents in the Senate hold the balance of power?
7. Ethnic groups and women are not well represented in the Australian parliament. What can be done to improve the 'representativeness' of the parliament?

**FURTHER READING**


**USEFUL WEBSITES**

**The Australian parliament**

  - *The Senate*
    - The Annual Report of the Department of the Senate and Senate Briefs are useful sources of information, e.g. Senate Brief No. 4, ‘Senate Committees’.

  - *The House of Representatives*
House of Representatives factsheets are a useful source of information, e.g. Factsheet No. 6, ‘Opportunities for Private Members’, and Factsheet No. 10, ‘The Budget and Financial Legislation’.

  Parliamentary Library: Publications
  See Parliamentary Library Research Notes, Research Papers and Current Issue Briefs.

- **http://www.parliament.uk**
  UK Parliament

- **http://www.parlimen.gov.my**
  Parlimen Malaysia

- **http://www.bundestag.de; http://www.bundesrat.de**
  German Bundestag/Bundesrat

- **http://www.house.gov; http://www.senate.gov**
  United States House of Representatives/Senate