

Crisp, The Senate, And The Constitution

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This essay explores the development of L.F. Crisp's understanding of the appropriate role of Australia's Senate in the national political system. A review of his widely-used textbook over three decades reveals that, to Crisp, the Senate was conceived primarily to protect state interests, but that role was nullified almost immediately by the emergence of disciplined parties. Thereafter, the Senate usually was an ineffectual irrelevancy until the introduction of proportional representation transformed it into a threat to the constitutional system as it should operate. Crisp also appreciated that disciplined parties undermined effective control of government by the House of Representatives, yet he consistently failed to recognize in the Senate an institution capable of doing what the House of Representatives cannot: enforcing accountability on the government of the day.

During the 1960s and 1970s and into the 1980s, when many of Australia's current political leaders were university students, one book on Australian government dominated the academic market. Although there were others available, the odds are good that today's senior Representatives and Senators, and other political influentials, who enrolled in an Australian government and politics course during this time were assigned to read one edition or another of the book by L.F. Crisp.¹ Crisp published the first edition of *The Parliamentary Government of the Commonwealth of Australia* in 1949. Subsequent editions appeared in 1954 and 1961. In 1965, *Parliamentary Government* was succeeded by Crisp's *Australian National Government*, the fifth and last edition of which was published in 1983 and reprinted thereafter. Although Crisp wrote other books, it is primarily on this one that his reputation and lasting influence rest, and it is because of this book that a building on the Australian National University's campus was named in his honor.²

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¹ L.F. (Leslie Finlay) Crisp was one of a handful of scholars who pioneered political science in post-Second World War Australia. He had a distinguished career as a public servant as well as a teacher and scholar. A Rhodes Scholar, Crisp joined the Commonwealth public service in 1940 and ultimately became the Director-General of the Department of Post-War Reconstruction. In 1949, he was appointed Head of Political Science at what was then the Canberra University College, and became the Foundation Professor of Political Science at the Australian National University (after the two institutions merged in 1960). Even before his retirement from the Australian National University in 1977, he was appointed to the Board of Directors of the Commonwealth Banking Corporation and served as its Chairman from 1975 until his death in 1984. He was active for several decades in the Labor Party which, coincidentally or not, long advocated abolition of the Senate.

² Crisp's book reads more like a treatise than a textbook in that he assumes that his readers already are somewhat familiar with Australian government and politics. Much of the book is analysis and commentary, with far less description and explanation than usually is found in a textbook intended for students who are new to the study of a subject.

In this essay I explore the development of Crisp's understanding of the role of the Australian Senate. What did the most widely-recognized and widely-read authority of modern times on Australian government teach successive generations of Australians about their political system and, in particular, what did he teach about the place in it of the Australian Senate? To explore this question, I examined three versions of Crisp's book that, together, were used over a period of more than a quarter-century. I selected for examination a copy of the third edition of *The Parliamentary Government of the Commonwealth of Australia*, published in 1961, and two copies of *Australian National Government*, one published in 1974 (a revision of the third edition, published originally in 1973) and the other a 1988 reprint of the fifth edition originally published in 1983.

Why was the Senate created? What should it do, and what should it not do? And how should the Senate relate to the House of Representatives and the government? There are many other questions that could be asked, of course, but the purpose and role of the Senate, as well as how it should or should not exercise its constitutional powers, have been such a recurring source of controversy in recent decades that surely we can benefit from reviewing what Crisp had to teach us. Firstly we shall examine how Crisp understood the Senate and its place in the constitutional order in 1983 at the end of his career, and then engage in a bit of intellectual archaeology by asking how this understanding in the 1980s differed from what he had written about the Senate in each of the two preceding decades.

Crisp's View of the Senate in the 1980s

More than thirty years after the first edition of his book was published, Crisp's attitude toward the Senate is encapsulated in this paragraph:

There seems to be insufficient evidence in the record of the subsequent seven decades to produce dissent from [historian H.G.] Turner's 1911 verdict on the Senate. Its role has been essentially secondary and quite other than many of the Founding Fathers envisioned for it. Party loyalty and solidarity — and indeed, party discipline — ordinarily temper the great power of the Senate. But if the Senate majority is opposed to the Government of the day the party factor there has real and inappropriate nuisance value.³

This brief statement points to Crisp's answers to two of the questions I raised at the outset — why was the Senate created and how should it exercise its constitutional powers — and clearly implies his answer to the third — how should the Senate relate to the House of Representatives and the government.

Crisp precedes his chapter on the Senate by juxtaposing two quotations. The first is a quotation from W. Harrison Moore, writing in 1901: "As the Courts are the guardians of the rights of the States in matters which lie outside the federal power, so the Senate is the guardian of the interests of the States in matter which are within the federal power." The second is a statement by a joint parliamentary committee of 1958-1959 that includes the following:

[...] the evolution of political parties has upset the speculations of many of the Founders as to how the Senate would function. The Senate has for many years been as susceptible to party political influences as the House of Representatives and proceedings in the Senate usually find party divisions corresponding to those in the House of Representatives [...] It is on the popular appeal of

³ L.F. Crisp, *Australian National Government*, 5th edn (Melbourne, 1983), p. 345. This reference is to the 1983 edition, as reprinted in 1988. Other quotations in the text attributed to Crisp's 1983 text are taken from the same source. Crisp died at the end of 1984, so we cannot assume that his positions and opinions would have remained unchanged between 1983 and 1988.