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**CHIPP FOUNDATION GRANT  
RESEARCH REPORT:  
CHANGING ATTITUDES TO UPPER HOUSES: THE LEGACY OF THE  
AUSTRALIAN DEMOCRATS**

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### **Introduction**

In 1980 the Australian Democrats emerged as a 'third force' in Australian politics when it won three seats and the balance of power in the Australian Senate. Since this time reflections on the role of the Democrats in Australian political life have crossed over with reflections on the role of the Senate, for the impact of the Democrats on Australian politics has depended in no small way on the party's presence in the upper house. This project uses the notion of the symbiotic nature of the relationship between the Democrats and the Senate as its starting point. The hypothesis the project seeks to test is that a major transformation in community attitudes towards the role and function of the Australian Senate is discernible. As part of this transformation the Senate is now viewed by the community as a crucial part of Australia's liberal democratic state partly because of the plurality of political voices permitted by its electoral system (multi-member Single Transferable Vote (STV) proportional representation), and partly because of its reputation as a potential check and balance on the power of executive government. The project then seeks to establish the extent to which this outlook has been influenced by the emergence of the Democrats, and whether or not the transformation in community attitudes towards the role of the Senate, and upper houses of Australian parliaments, might be viewed as an important legacy of the party's impact.

This report outlines the preliminary findings of the research. These findings include that:

- the notion that attitudes towards and outlooks on the role and function of the Senate have undergone a transformation is much stronger in the secondary literature than in any survey undertaken of public opinion. The exception to this is the data available under the auspices of the Australian Election Survey (AES) undertaken by the Australian National University where, after the 1990 election, respondents were given the opportunity to respond to questions about the most democratically desirable outcome in Senate contests. Reviews and discussion of reform to the Legislative Council in both Western Australia and Victoria also provide evidence of the extent to which the view that upper houses have a crucial check-and-balance and review-of-government role to play has permeated Australian thinking about the role of upper houses in recent times. Apart from these sources of primary data, most of the case for arguing that attitudes towards the Senate and other Australian upper houses have been qualitatively changed rests on the writings of scholars in the field;
- that election data indicates that the voters have also embraced the idea of the Senate acting as a check and a balance against the executive by showing a consistent pattern of what some analysts describe as 'strategic voting'. The paper will show that the tendency for more people to vote for the Democrats in the Senate rather than in the House of Representatives has been a constant feature of the Democrats' electoral performance from 1980 to 2004. This data provides an important insight to the extent

to which the Democrats' message about using the Senate to keep the major parties in government answerable and accountable has resonated with the electorate;

- that AES data corroborates the claim that the community have been influenced in their attitude towards the Senate by the strength of the argument about the potential of the upper house to act as a break on prime ministerial and executive power, to be a chamber of review and to require the government to be answerable and accountable for its actions.

The report argues that quite definite eras of community attitudes towards the Senate are discernible, and that the contemporary era where the Senate has been seen as an important part of Australia's liberal-democratic framework by exercising veto over the government of the day, by seeking to utilise the committee system to make government answerable, and by encouraging the notion of a plurality of political voices beyond the two-dimensional Labor-Coalition configuration has coincided with the emergence of the Democrats as a balance-of-power force in the Senate. In other words, the paper sees a causal link between the emergence of the Democrats and the transformation of community attitudes towards the Senate, particularly in the aftermath of the bitterness that had been caused by the 1975 Constitutional Crisis in which the Senate played a major role. Although it was not the first minor party to exploit the potential STV proportional representation provides for minor parties to win parliamentary seats after the change to the Senate's voting system in time for the 1949 election (the Democratic Labor Party having done this after the 1950s), it was the first minor party to seek to act as a broker between the major parties in the upper house (whereas the DLP had tended to side with the Liberal-Country coalition for most of the time). As such, the Democrats became an example that other minor parties were to follow.

The research provides data to back some of these assertions, but it also reports some complexities and, indeed, some apparent paradoxes. These include:

- that the Australian Democrats electoral performance has weakened despite the AES data suggesting a strengthening of community support for the proposition that the Senate should act as a check and balance on the government of the day. This may partly be due to the increase in the rate of other minor party success (measured, in this case, by the ability to win seats in the Senate). Since the emergence of the Democrats other minor parties have also won seats in the Senate including the Nuclear Disarmament Party, the various 'green' parties, Pauline Hanson's One Nation party and the Family First party. This plurality of party representation in the Senate in the period since the rise of the Democrats contrasts with the previous era, suggesting that the Democrat cause might have acted as a model for other minor parties;
- that a paradox is apparent when AES data on community attitudes towards the upper house are compared with electoral behaviour. Here emerges a major inconsistency. We show here that at the very period in which the AES finds increasing community support for the proposition that the upper house should not be in the hands of the government of the day, the electorate in 2004 actually voted to give the Liberal-National coalition under John Howard an absolute majority of seats in the Senate. What is more, we find an increase in the total vote for the major parties (Labor-Coalition) at the very same time that the AES finds increasing support for the proposition that the government should not control the Senate.

### **Shifts in attitudes towards the Senate**

Three distinct phases in community attitudes towards the Senate are discernible from the secondary literature that reflects on the form and nature of the Australian political system. If 1949 – the year in which proportional representation is used to elect the Senate for the first time – is used as the starting point, the first attitudinal phase stretches from 1949 through to 1972. This period was characterised by the notion of the Senate as a ‘rubber stamp’ of the executive, or, as David Solomon observed (1969:522), the resting place for ‘pensioned-off party hacks’ whose loyalty to the major party machine was rewarded with a seat in a chamber considered to be ‘...an anachronism’. The reasons for such an outlook lay in the representational composition of the Senate. According to a principle known in political science as ‘Duverger’s Law’ (Farrell & McAllister 2003) in which it is hypothesised that the nature of a jurisdiction’s party system is determined by the electoral system and that a multi-party system ought to derive from proportional representation systems the Australian Senate might have had a multiplicity of parties earlier. That this was not the case after the adoption of proportional representation in 1949 is surely one of the more interesting features of the chamber’s history. The nature of the representational outcomes between 1949 and 1972 meant that the coalition governments of the day had effective control of the Senate, either because of the majority held by the Liberal and Country parties or, after then 1955 split of the Labor party, because of the presence of the avowedly anti-Labor DLP.

The election of the Whitlam Labor government in 1972 marked the beginning of the second phase in which the Senate went from being a rubber stamp to displaying the characteristics of partisan obstructionism – an approach that culminated in the 1975 constitutional crisis where the Senate gave a stark reminder of its constitutional power when it forced the Whitlam government to a premature election against the wishes of the prime minister (but at the behest of the Governor General). The circumstances of the crisis and the constitutional debate it precipitated are thoroughly canvassed elsewhere (Emy 1978; Bach 2003). In the immediate aftermath of the Senate’s refusal to consider supply and the Governor General’s dismissal public opinion about the upper house polarised. For those critical of the Whitlam government, the Senate’s role resonated in the conservative tradition of having a house that could keep a radical prime minister in check. To Labor partisans the Senate’s role in not just obstructing a reform-oriented social democratic party, but also actually working to have it dismissed from office reinforced traditional Labor notions of upper houses as anachronistic and reactionary institutions designed to frustrate popular governments. The call for reform of the system, including the abolition of the Senate, was for a time part of the ALP policy platform.

There was another important consequence of the 1975 constitutional crisis. Historical accounts of the emergence of the Australian Democrats generally agree that the 1975 crisis and the sense that very little had changed in the political debate in 1977 were important contributors to the prevailing political environment within which a ‘third force’ party emerged. Again, historical accounts of the emergence of the Democrats may be found elsewhere. The purpose in acknowledging this important development here is to again identify the beginning of a new phase in the attitude the Australian political community would have with respect to upper houses in the post-1975 period. By 1980 the Australian Democrats had won three seats in the senate and were holding the balance of power between the ALP and the Coalition. The party had been elected on a platform of seeking to impact on a debate otherwise dominated by two major party blocs by using the powers of the Senate to review legislation, to hold the executive answerable for its actions, and to seek to broaden the policy debate particularly with respect to addressing those policy matters the major parties would rather not raise. To the public, this was presented as ‘keeping the bastards honest’. To the political community, what the Democrats were proposing to do was to resurrect the review and accountability functions assumed to exist in Westminster bicameralism, but that had hitherto been dormant in the Australian practice because of the major party domination of representational outcomes in the Senate.

The effect of the Democrats on this aspect of the debate was apparent almost immediately and manifested itself in three realms. These included:

- the debate about ‘mandate’ (see Emy 1997, Goot 1999; Bach 2003), launched by aggrieved major party leaders seeking to get their way on policy matters in their role as prime ministers, but forced by the balance-of-power situation in the Senate to enter in to dialogue, negotiation and bargaining on major policy issues, and to be answerable to a Senate committee system that was not under the control of the major party (or parties) in government again as a result of the representational situation in the upper house. Occasionally, major party leaders would vent their frustration in public, or, in the case of John Howard, launch a campaign to undertake constitutional reform designed to circumscribe the Senate’s powers (Howard 2004:29656).
- shifts in perspectives on the Senate discernible in the scholarly literature from which students of the Australian system have been guided. If Solomon’s (1971) jaundiced view of the role of the Senate in 1969 marked the prevailing view at the end of the ‘rubber stamp’ era, scholarly work on the Senate in the era dominated by the Democrats holding the balance of power cast the Senate’s role in a very different light. In this era the scholarly work argued a case for seeing the Senate as a crucial part of the Australian liberal democratic state . Whereas the capacity of the upper house to amend and/or defeat legislation had been previously viewed as obstructionism, under the influence of the Democrats these functions were now viewed as examples of how the power of the prime minister and the cabinet could be constrained. By exerting its balance-of-power configuration over the composition of Senate committees as well, the Democrats were also able to assist in developing the idea that these committees had become an indispensable means by which governance would be subjected to the rigours of parliamentary scrutiny. The parliament did not appear to simply be the play-thing of the executive any more. By the same token, the approach of the Democrat senators was such as to exorcise the shadow of obstructionism practiced during the Whitlam period. The Democrat promise to never use its Senate numbers to instigate a repeat of the 1975 crisis removed another of the palls cast over the chamber’s reputation;
- the extension of these alternative perspectives on the capacity of the Senate to act as a constraint on executive power in the liberal tradition, to make government more answerable and accountable for its performance, and to seek to bring a greater diversity of policy debates down to debates about reforming state upper houses has been another important feature of the debate in this third phase. Of the Australian states, two in particular – Western Australia and Victoria – reformed their upper houses in this post-1975 period and did so using the practice of Senate politics as experienced during the period dominated by the Democrats as a guide. Thus the reform process involved public discussions venerating the role of upper houses as a check and balance on executive power and the utilisation of the STV-proportional representation system used to elect the Senate (Parliament and Representation in Western Australia 1985; Constitution Commission Victoria 2002).

This paper argues that a causal link exists between the shift in political community’s attitude to the role of the Senate (and, indeed, to state upper houses (see Stone 1998) and the emergence and performance of the Australian Democrats. Notwithstanding the internal problems that arose from time to time (a feature that is common to all political parties), the Democrats attitude towards the constitutional potential for the Senate to discharge review functions and to be a forum for negotiation and bargaining over legislation helped resurrect the upper house’s reputation in the aftermath of the 1975 crisis in particular. The way in

which the Democrats were able to utilise the electoral system to this end also deserves recognition for, as we shall see, there is a strong sense that the Democrat experience became a template for other minor parties to also seek the political opportunities accorded to those who can win a strategically important number of upper house seats.

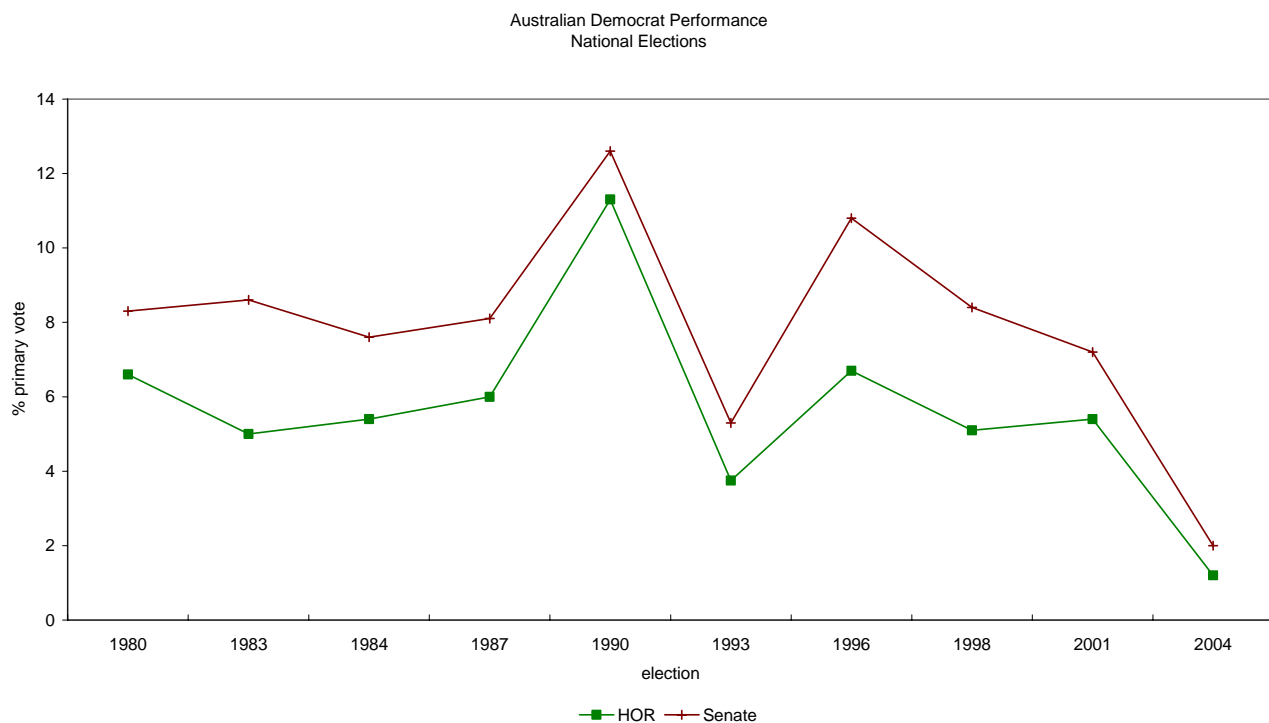
### The public perception

The primary evidence of shifts in public attitudes towards the Senate (and, indeed, state upper houses as well) is not as extensive as the secondary sources that reflect on the nature of the system. Taking the aforementioned as a guide, it is possible to identify two seemingly contradictory messages about the Senate and it being controlled by something other than that governing party or parties. On the one hand is the message from the government of the day (usually via the prime minister but sometimes by other ministers) that lack of control of the upper house prevents the government from being able to govern and that the exercise of veto power in the upper house represents an undemocratic empowerment of the minority. On the other, academic and more reflective writing has reinforced the liberal and democratic connotations associated with the idea of an upper chamber acting as a brake on the power of the executive and especially the prime minister. Which message has been most influential on the public?

To answer this question two sets of data were consulted. First, election results were reviewed in order to isolate any indicators of voter response to the Democrat message about utilising the Senate as a means of 'keeping the bastards honest'. Second, responses from ANU's electoral study were consulted in order to disaggregate any more insights to the reasons why voters voted the way they did in the series of federal elections since 1980. Of particular interest were those survey questions seeking to test voter responses to the theme of the role of upper houses in bicameral Westminster parliaments. Indeed, for a period the AES included a question on whether voters believed it better for the system if the government or the opposition parties should have a majority in the Senate – a question formulated no doubt with the ongoing debate about competing mandates in mind.

**Figure 1: Australian Democrat performance at national elections**

Of the electoral data that can be obtained and marshalled in a bid to gain insights in to the



resonance of the Democrat message to the community, four sets are particularly useful. The first of these is the comparison of the national primary vote cast for the Australian Democrats in House of Representatives contests compared with that cast for the Senate (see Figure 1). This graph tells a number of stories, although the main theme to notice from this data set is the persistence of the gap between the total lower house vote and the total upper house vote. This figure shows that there has not been a case where the total vote cast for the Democrats in the lower house equalled or exceeded the vote for the Senate, although there were periods where the gap was subject to some narrowing. It is this gap that is sometimes referred to in the scholarly literature as ‘strategic voting’ (see Bowler & Denmark 1993) where a number of voters cast a primary vote for one or other of the major parties in the lower house but seek to check and balance their lower house choice by voting to elect a Democrat presence in the upper house – presumably with the express intention of ‘keeping the bastards honest’. Table 1 fleshes out the graph by reminding us of the rate at which the Australian Democrats returned Senate representation relative to its vote. As the table indicates the Democrats were able to win seats in all Senate contests bar 2004. Prior to this, the Democrats’ worse performance had been the 1993 contest.

**Table 1: Number of Senate seats won by parties at elections 1980 – 2004**

	1980	1983*	1984	1987*	1990	1993	1996	1998	2001	2004
Australian Labor Party	15	30	20	32	15	17	14	17	14	16
Liberal & National Parties	15	28	20	34	19	19	20	17	20	21
Australian Democrats	3	5	5	7	5	2	5	4	4	0
Independents/Others	1	1	0	0	0	0	0	0	0	0
Nuclear Disarmament Party	0	0	1	1	0	0	0	0	0	0
Brian Harradine Group	0	0	0	1	0	1	0	1	0	0
Vallentine Peace Group	0	0	0	1	0	0	0	0	0	0
Greens	0	0	0	0	1	1	1		2	2
Pauline Hanson's One Nation	0	0	0	0	0	0	0	1	0	0
Family First	0	0	0	0	0	0	0	0	0	1

\* = Double dissolution election. Source: elections.uwa.edu.au

Figures 2 and 3 arrange the same data by different analytical criteria. Figure 2 plots the total primary vote cast for the ALP and the Liberal and National parties and compares this with the primary vote cast for the Australian Democrats and the vote for all other parties and candidates. Figure 2 is important for what it reveals about the impact of the Democrats on the party system and on the contest for the Senate. The graph shows that the Democrats to outperformed all other minor parties except in 1984, when the Nuclear Disarmament Party (NDP) made an impact, and in 1993 when the Democrat vote had fallen to what had been up until that point an unprecedented low. By the time of the 1998 election, however, the total vote for other minor parties had overtaken the Democrat vote.

Figure 2

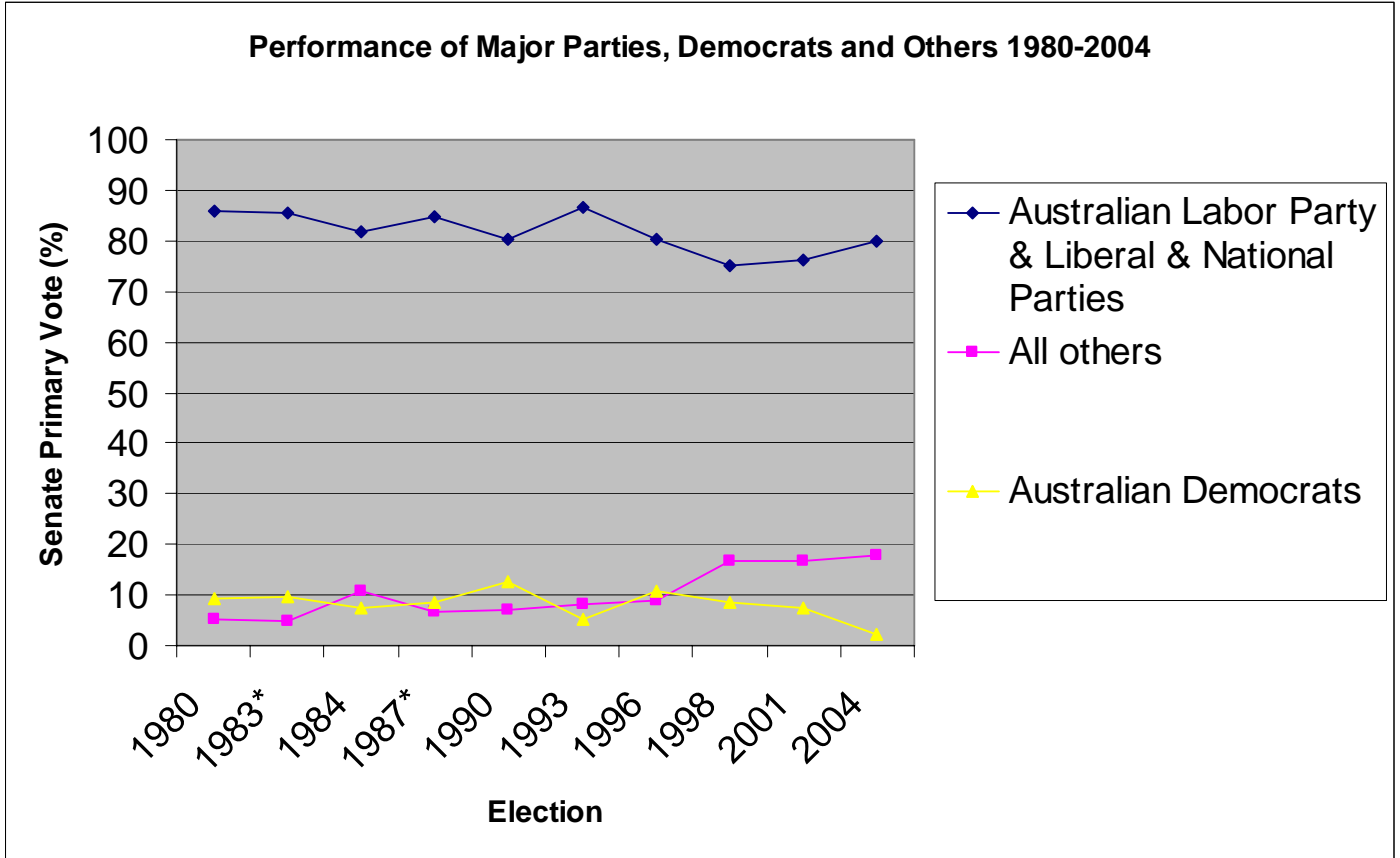


Figure 3

\* = Double dissolution election

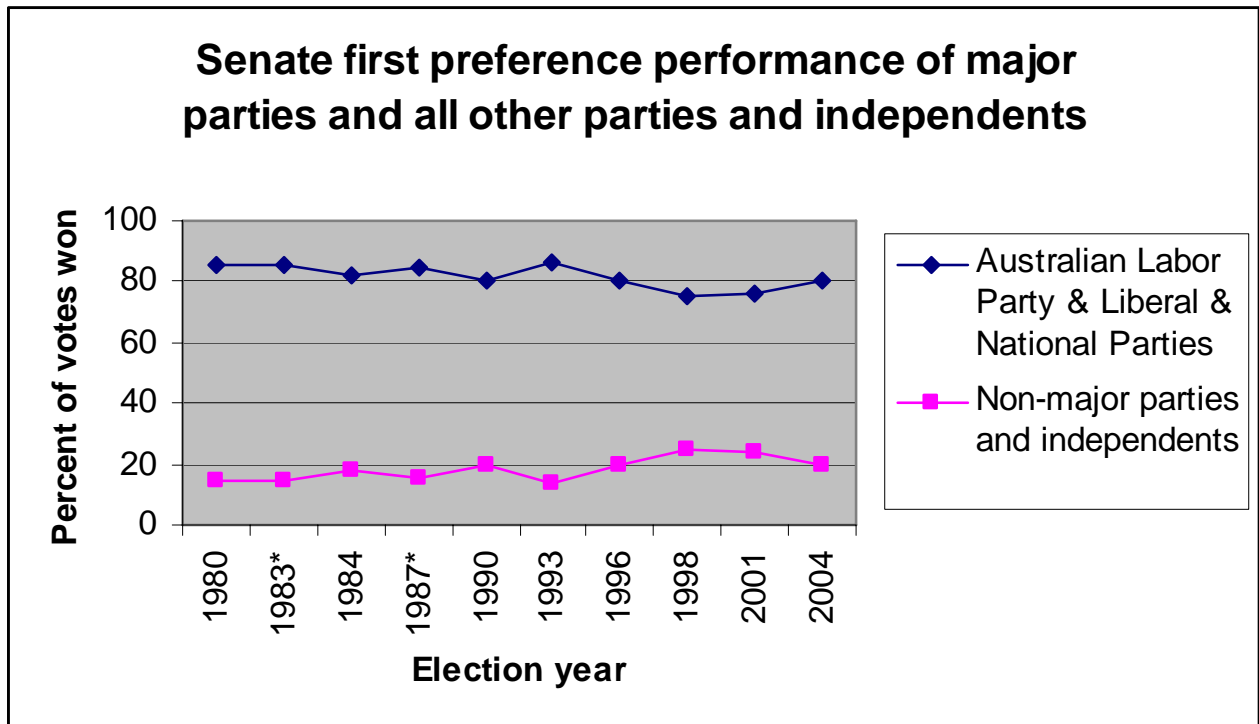


Table 1 also provides an insight to an interesting development in the electoral battle for the Senate. In addition to noting the number of seats won by the major parties and the Democrats, the table traces representational outcomes for other parties. The pattern it reveals is interesting. While the Democrats were until 2004 the only minor party to consistently win seats in Senate contests, the record shows an increase in other minor party representational gains from 1984 onwards. In 1984 the NDP won a seat, and repeated this in 1987. The West Australian Greens picked up a seat in 1990, and the Greens won seats in 1993, 1996, 2001 and 2004. Pauline Hanson's One Nation won a seat in 1998 and Family First won a seat in 2004. This comparative multiplicity of minor party success in the Senate contrasts with the monopoly of Labor, Liberal, Country and DLP outcomes in previous eras. The problem for the Democrats has been that many of these emerging minor parties have picked up the critique of major party politics implicit in the Democrat message but have also succeeded in projecting a much firmer position on some matters of policy controversy in a bid to differentiate themselves from the Democrats and from each other. The Democrats' success in winning Senate seats from 1980 onward marks the beginning of a period of unprecedented representational activity involving other minor parties too. The 2004 election outcome is so worrying for the Democrats precisely because other minor parties were continuing the trend of winning seats while the original anti-major party minor party failed to do so.

At the conclusion of each federal election the ANU undertakes its election survey in a bid to isolate some of the reasons behind discernible changes in voting behaviour from one election to another. It has been this data in particular that has been used by analysts to assert that there has been a decline in the rate at which voters have aligned themselves with Labor or the coalition and that, in its place, has emerged greater support for minor parties and independents (Curtin & Costar 2005). After the 1990 election in which there was a major increase in support for the Australian Democrats in particular (although this is sometimes mistakenly referred to as a growth in support for 'green' parties (McAllister & Bean 1990), the AES asked respondents to indicate if they thought it was better for the Senate to be under the control of the government of the day, or if it would be better if the government were not in control of the upper house. This question was asked again in 1998, 2001 and 2004. The response to these questions is charted in figure 4.

**Figure 4**

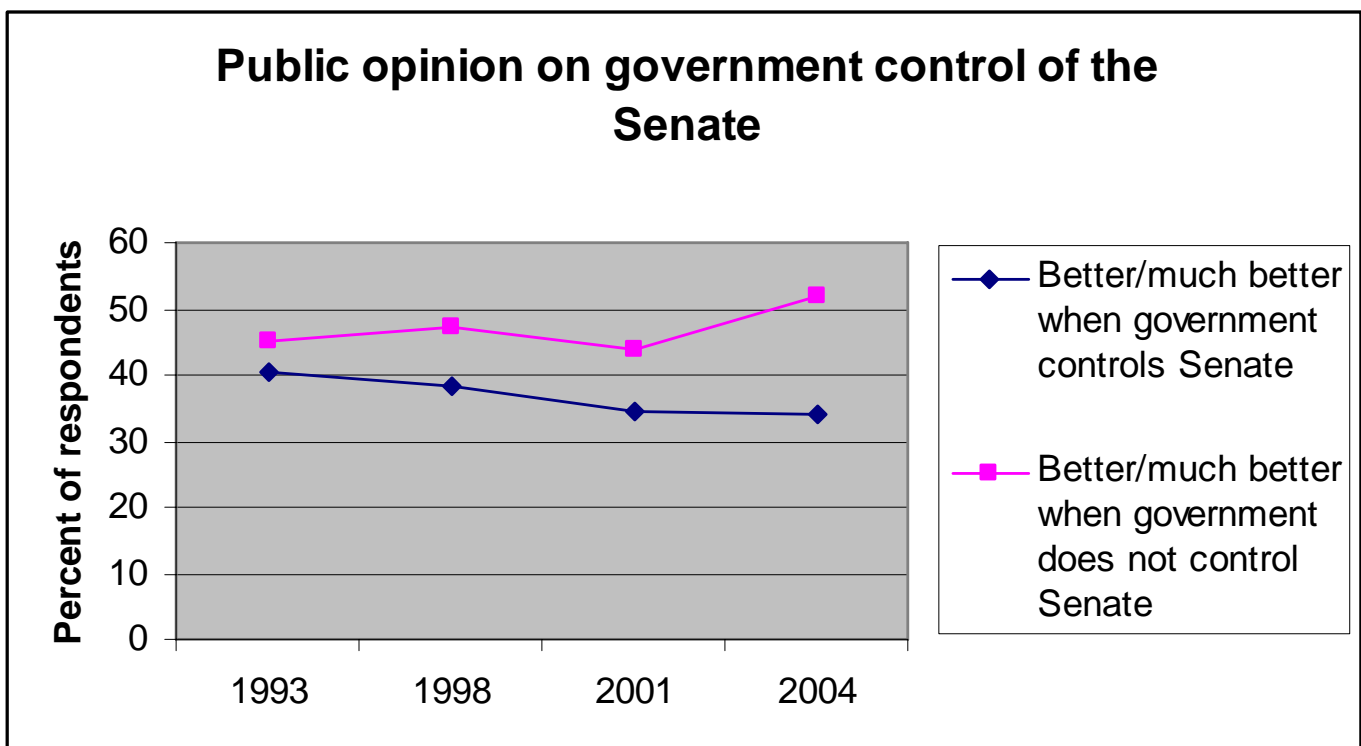


Figure 4 clearly indicates that a majority of respondents indicated their preference for the government not to have control of the Senate. Here is strong evidence of the popular resonance of the Democrats' core message. The trends in this data are also interesting; clearly the gap between respondents favours those who prefer the government to not have control of the upper house compared with those happy for there to be executive control has increased with successive elections. What is also interesting is the growth in the percentage of respondents indicating their support for opposition control of the Senate, including a very big leap in the percentage from 2001 (43.8 percent) to 2004 (52 percent). All this is very encouraging for those presenting the proposition that the Democrat message about the potential to use the upper house as a check and a balance on the executive, but there is a major problem with this data. At the very time that the AES finds a significant increase in the rate of support for non-government control of the Senate, the electorate in the 2004 senate contest actually voted in completely the opposite way. At the conclusion of the 2004 Senate count the Liberal and National parties won a majority of seats which, combined with their 2001 result, gave the government an absolute majority in the upper house. This point is reinforced by looking at the trend in major-party voting for the Senate compared with non-major party voting in the Senate (figure 4) where, in 2004, there was a clear trend back to major party voting.

## **Conclusion**

Research in to the response of the Australian political community to the role the Senate should play in Australia's parliamentary system indicates a causal link between the appearance of the Australian Democrats as a 'third force' in Australian politics based on the party's stated intention of using the upper house's constitutional powers to apply liberal notions of constraining the power of the executive and democratic notions of making governments answerable and accountable for their administration. The Australian political discourse on upper houses since 1980, when the Democrats won three senate seats and exercised the balance of power, has changed completely from the formerly held view that the Senate was either an anachronism, a conservative institution blocking a reform-oriented government, or a 'rubber stamp' for the executive. Electoral data and data from the AES appear to corroborate this view, although it has been argued in this paper that perhaps the more significant force driving this view emanates from the considered opinion of scholars of Australia's parliamentary system. Their message – that the liberal and democratic nature of the system has been greatly enhanced by the role played in the Senate by a party like the Australian Democrats – has outweighed the attacks on non-government control of the Senate by successive major party governments and their frustrated prime ministers.

Having said all this, it is also the case that there are some paradoxical messages contained especially in the electoral and AES data. The record of non-major party representational outcomes in the Senate shows stability in the Democrat performance compared with volatility amongst other non-major parties, although – alarmingly for the Democrats – a very sharp decline in Democrat performance in the last federal contest is discernible. This might be accounted for by suggesting that other minor parties are moving to exploit the territory between the major parties originally held by the Democrats, but there are some other puzzling features about the data. Aggregated voting data suggests a swing back to major party alignment amongst Senate voters that represents a reversal of a trend discernible between 1980 and 2001. Most glaring of all is the gulf between the AES finding on voter attitudes towards giving control of the Senate to the non-governing parties, and the performance of the electorate in the 2004 contest. The shift in community outlooks on the role of the Senate has clearly occurred, yet the evidence is there to suggest yet another shift in voter attitudes may be taking place. There has been a Democrat legacy both in community outlooks on the role of

the Senate and in how the non-major parties approach the contest for the Senate. The result in the 2004 election casts some doubt on the durability of the legacy, however.

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