

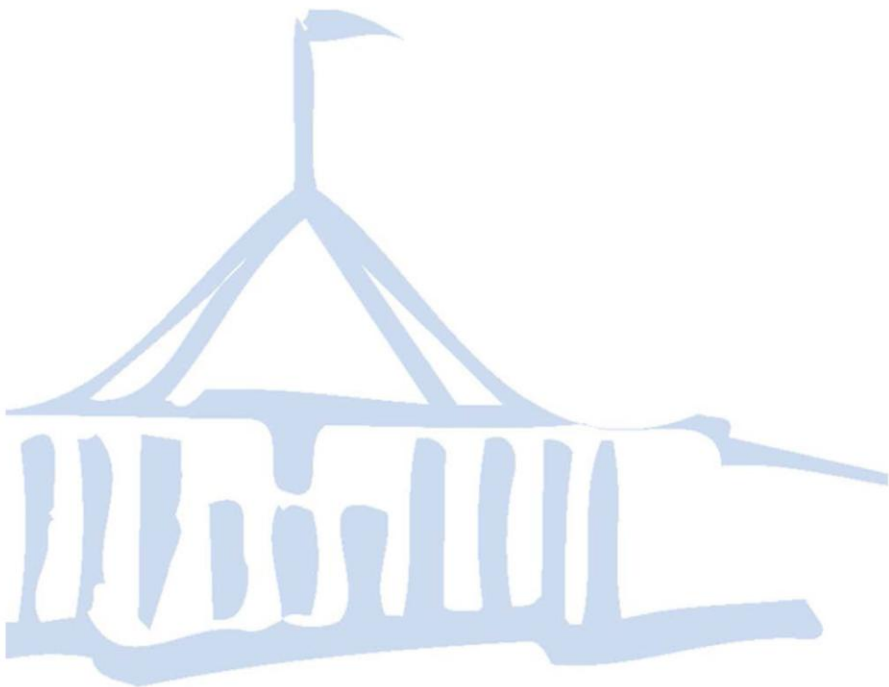
# Communiqué

## TOPIC -

Should Section 53 of the Constitution be amended to prevent the Senate from blocking supply (rejecting money bills)?

**The Museum of Australian Democracy  
at Old Parliament House, Canberra**

24 to 26 March 2026



**31ST NATIONAL SCHOOLS  
CONSTITUTIONAL CONVENTION**

## Introduction

The 31st National Schools Constitutional Convention (NSCC) was held at the Museum of Australian Democracy (MoAD) at Old Parliament House, Canberra, from 24 to 26 March 2026. A total of 113 students from diverse schooling backgrounds across Australia attended. Delegates discussed whether section 53 of the Constitution should be amended to prevent the Senate from blocking supply (appropriation bills).

## Introduction of the facilitator

Mr Geoffrey O'Neill, Executive Director of National Curriculum Services, welcomed delegates and teacher supervisors on behalf of the Australian Government Department of Education and National Curriculum Services.

He acknowledged the support of the Australian Government and state and territory education authorities in enabling delegates from across Australia to participate.

Mr O'Neill introduced the facilitator, Emeritus Professor Clement Macintyre (University of Adelaide). In his opening remarks, Professor Macintyre noted that while the Constitution is a small document, it has a significant impact on the lives of Australians. He encouraged delegates to consider the balance of power between the House of Representatives and the Senate, particularly the Senate's ability to block supply. He asked delegates to consider what level of power is appropriate for the Senate and whether, given its ability to force an elected government to an election, it should have the authority to do so. He invited delegates to reflect on whether this power remains appropriate in a contemporary democracy.

He explained that constitutional change is a key political process and that delegates would vote in a referendum during the convention to decide whether to support constitutional change. Professor Macintyre encouraged active, respectful participation and engagement of all delegates over the next two days.

## Welcome to Country

Ngunnawal and Kamilaroi custodian and Cultural Director of the Traditional Owners Aboriginal Corporation, Richie Allan, delivered the Welcome to Country. He explained that a Welcome to Country is not simply about welcoming people to the land, but to an ancient and continuing world grounded in connection to Country and sustained through enduring cultural knowledge, traditions and practices over thousands of years. He emphasised the importance of respecting diverse perspectives and ensuring all voices are heard.

## Welcome to MoAD

Georgie Bryant, a representative from the Museum of Australian Democracy (MoAD), welcomed delegates and highlighted the heritage significance of Old Parliament House. She emphasised the importance of preserving this historic site and its role in the development of Australia's democracy. Delegates were encouraged to reflect on the decisions made within the building and to consider its continuing role in shaping Australia's democratic traditions.

## Address from the Attorney-General

The Attorney-General, the Hon Michelle Rowland MP, addressed delegates via a pre-recorded video.

As the first law officer of the Commonwealth, she outlined her role in promoting the rule of law to ensure all Australians are afforded fairness, safety and freedom. She explained that Australia's democratic system upholds the rule of law through principles such as the separation of powers, and encouraged delegates to continue to exercise active citizenship to hold governments accountable.

In concluding, she wished delegates well in their discussions and emphasised that serving the common good is a central responsibility of elected representatives.

## Official opening of the convention

Professor Macintyre officially opened the convention, emphasising its status as a key component of the Civics and Citizenship program, supported by the Australian Government Department of Education and both sides of politics for over 30 years. During the drafting of the Constitution, the public contributed through conventions held across the colonies. This process allowed feedback to be provided to politicians and the government. Over the next two days, delegates would replicate this process, discussing various perspectives, hearing expert input, voting on a referendum question, and preparing a communiqué. He acknowledged the role of National Curriculum Services in organising the event.

## Keynote 1: Federation, democracy and tradition: The fraught compromise of section 53 of the Constitution.

- **Professor Gabrielle Appleby, University of New South Wales**

Professor Appleby outlined the historical context of section 53, explaining that it emerged as a compromise during Federation to balance competing interests between larger and smaller colonies.

She noted that the Constitution reflects the values and perspectives of its time and encouraged delegates to consider whether it continues to reflect contemporary Australian society. She referred to the evolving nature of Australian society and ongoing discussions about constitutional change.

Professor Appleby explained that constitutional change is difficult to achieve, noting that section 128 requires a double majority at referendum.

She outlined the role of the Constitution in establishing the framework of Parliament and responsible government, including how power is exercised and held to account. Section 53 provides that appropriation bills must originate in the House of Representatives and gives the Senate the power to block supply.

In examining the origins of section 53, Professor Appleby identified key factors influencing its inclusion:

- the need to balance the interests of larger and smaller colonies
- economic tensions at the time between free trade and protectionism
- the importance of revenue-raising powers

She noted that the Australian system draws on elements of both the United Kingdom and the United States, incorporating representative democracy and responsible government. While the House of Representatives was intended to control financial matters, the Senate was established as a states' house with the power to reject legislation.

The inclusion of section 53 reflected a compromise between these principles. While the Senate cannot initiate or amend appropriation bills, it retains the power to block supply.

Professor Appleby outlined changes since Federation that have influenced the role of the Senate, including:

- the rise of political parties
- the introduction of proportional representation
- the reduced likelihood of governments controlling both houses of Parliament

She noted that the Senate now operates primarily as a house of review and scrutiny, rather than genuinely representing the states.

Delegates were invited to consider whether section 53 remains appropriate in modern Australia, particularly in light of changes to the composition and function of the Senate and the events of 1975.

Questions from delegates included:

- Should section 53 be amended, or are there alternative ways to address tensions between the two houses?
- What are the implications for fiscal policy when governments face a hostile Senate?
- To what extent did the 1975 constitutional crisis reflect the powers of the Governor-General rather than the Senate?
- Is state identity still relevant in contemporary constitutional reform?
- Does Parliament adequately represent modern Australian society?
- In responsible government, which is more important: accountability or the balance of power?

## Keynote 2: Blocking supply: The Whitlam dismissal revisited.

- **Professor Emerita Anne Twomey, University of Sydney**

Professor Twomey examined the relationship between control over public finances and responsible government, noting that the ability to raise and spend revenue is central to effective governance.

She outlined the historical context prior to Federation, when colonial governments controlled taxation and expenditure. She explained that where governments could not secure supply, they would typically seek an election to obtain a mandate from voters.

Professor Twomey noted that the willingness of upper houses to block supply has historically depended on their composition. Unelected upper houses were generally reluctant to block supply, while elected upper houses were seen as having greater legitimacy to do so.

She referred to historical examples in Victoria, including instances in 1865 and 1878 where supply was blocked. In these cases, disputes between the houses contributed to governments resigning and elections being held.

Professor Twomey outlined the consequences of blocking supply, including:

- impacts on households and economic activity
- the use of alternative funding arrangements, which were considered constitutionally uncertain
- the role of governors in responding to constitutional disputes

She then considered how these historical precedents informed the events of 1975. She noted that, prior to 1975, there had been limited precedent at the federal level for the Senate blocking supply.

Professor Twomey explained that the use of section 53 is shaped by constitutional convention. She outlined the conditions required for a convention to exist, including established practice, acceptance by relevant actors and a clear rationale grounded in responsible government.

She observed that, in 1975, these elements were contested. While the Senate had previously sought amendments to legislation, there was limited precedent for blocking supply. Differing views between political parties also affected whether a shared convention could be said to exist.

Professor Twomey noted that some jurisdictions, including New South Wales, have removed the power of upper houses to block supply without significant impact on their ability to scrutinise legislation.

She concluded that the use of section 53 to block supply has been shaped by political and constitutional considerations and is generally regarded as a power to be exercised only in exceptional circumstances.

Questions from delegates included:

- Is the dismissal of an elected government likely to happen again and do we need to change section 53?
- Is the use of this provision on section 53 unconstitutional in that it works against democratic principles?
- If populist governments use propaganda to convince people about the use of section 53, is there a risk to the ballot box remedy of blocking supply?

## Feedback session 1

Delegates discussed the implications of section 53 following keynote sessions 1 and 2.

Key themes included:

- the potential social and economic impacts of blocking supply, including reduced government services and broader economic consequences, with the greatest impact on vulnerable Australians.
- the role of checks and balances, and tensions between the mandate of the government in the House of Representatives and the role of the Senate
- the view that section 53 should be exercised only in exceptional circumstances to ensure continuity of government functions
- differing perspectives on whether the use of section 53 is consistent with democratic principles

Delegates also considered the role of the Senate in a contemporary context, noting its more diverse composition and the influence of party-based decision-making.

Some delegates observed that section 53 was a compromise at Federation to protect the interests of smaller states, and discussed whether this function remains relevant in the current parliamentary system.

## Keynote 3: Political perspectives on the use of section 53.

- **The Hon John Faulkner and the Hon Nick Minchin AO**

Former senators John Faulkner and Nick Minchin presented contrasting perspectives on the use of section 53, particularly in relation to the 1975 dismissal of the Whitlam Government.

Mr Faulkner argued that the use of section 53 in 1975 was politically motivated and inconsistent with the principles of responsible government. He noted that the elected government retained the confidence of the House of Representatives and therefore should have continued access to supply. He also raised concerns about the role of the Governor-General during the crisis and the extent to which constitutional conventions were followed.

Mr Faulkner observed that, while section 53 allows the Senate to request amendments to appropriation bills, its use to block supply represents a significant exercise of power. He argued that this use was not anticipated at

Federation and that clearer guidance or reform may be required. He concluded that section 53 should be amended to remove the Senate's ability to block supply.

Mr Minchin presented an alternative view, emphasising that section 53 limits the Senate's powers, as it cannot initiate or amend appropriation bills. He noted that the provision was included at Federation to protect the interests of smaller states and to maintain a balance between the two houses.

Mr Minchin argued that, as an elected chamber, the Senate has the authority to reject legislation, including in circumstances where it considers government actions to be contrary to the national interest. He described the use of section 53 in 1975 as consistent with constitutional practice and supported by the outcome of the subsequent election.

He further noted that the power to block supply serves as an important check on executive government and should be retained, while acknowledging that it should be exercised responsibly and in limited circumstances.

Questions from delegates included:

- Does the use of section 53 conflict with the mandate of a majority government in the House of Representatives?
- Could section 53 be used as a political tool in the future?
- What implications did the events of 1975 have for other Commonwealth countries?
- What would be the impact of amending section 53 on checks and balances within the system of government?
- Should the Constitution provide clearer guidance on when it is appropriate to block supply?

#### **Keynote 4: Arguments for and against a change: Drawing the threads together.**

- **Professor Alan Fenna, Curtin University, Western Australia**

Professor Fenna provided an overview of key constitutional principles to support consideration of the referendum question.

He outlined the concept of bicameralism, noting that Australia's Parliament consists of two houses with broadly equal powers. He compared this with other jurisdictions, including those with bicameral systems such as Germany and the United States, and those with unicameral systems, such as New Zealand and Queensland at the state level. He noted that different models allocate varying levels of power to upper houses.

Professor Fenna explained that bicameral systems can create tensions in relation to financial matters, particularly where both houses have significant authority.

He outlined the historical role of upper houses in representing and protecting particular interests, including those of smaller or less populous states. In the Australian context, the Senate was established to represent state interests and to review legislation. He noted that the development of party-based voting has influenced this role over time.

Professor Fenna also discussed the Senate's contemporary function as a house of scrutiny, highlighting its role in reviewing and amending legislation and holding the executive to account. He noted that the introduction of proportional representation has increased the diversity of representation in the Senate.

He referred to international examples, noting that in some systems upper houses cannot bring down governments or block supply, and instead focus on legislative review.

Professor Fenna explained that, under the Constitution, the Senate has the power to reject legislation, including appropriation bills, although it cannot initiate them. He noted that the use of section 53 is shaped by constitutional convention rather than codified rules.

He invited delegates to consider whether the Senate's power to block supply remains appropriate, and whether clearer guidance or reform options should be considered.

Questions from delegates included:

- Has the threat of section 53 influenced the behaviour of governments in the House of Representatives?
- Does party-based voting affect the Senate's role as a house of scrutiny?
- Could alternative models, such as a citizens' assembly, replace or complement the role of an upper house?
- Should Australia adopt elements of other federal systems?
- Would the use of section 53 require broad support across the Senate in the current political context?
- How should the respective mandates of the House of Representatives and the Senate be balanced?
- Would removing section 53 affect the Senate's ability to hold government to account?
- Would time limits on the passage of appropriation bills affect the role of the Senate.

## Feedback session 2

Delegates discussed the role of section 53 following keynote sessions 3 and 4.

Key themes included:

- differing views on the respective mandates of the House of Representatives and the Senate, and how these should be balanced
- the importance of checks and balances, including consideration of whether section 53 represents an appropriate safeguard or an overreach
- the role of the Senate in scrutinising government policy, and concerns about the impact of blocking supply on citizens
- consideration of the likelihood of circumstances similar to 1975 occurring in the contemporary political context
- the influence of minor parties in the Senate and the implications for the use of section 53
- differing perspectives on whether removing section 53 would improve government efficiency or weaken accountability

Delegates also discussed proposals relating to the passage of appropriation bills, including time-based mechanisms, and their potential constitutional and practical implications.

Some delegates supported retaining section 53 as an existing safeguard within the constitutional framework, while others considered whether reform may be appropriate.

## Introducing the referendum question

Lisa Wylie from the Australian Electoral Commission introduced delegates to the referendum process.

She explained that referendums are used to amend the Constitution, including to add to, alter or remove provisions.

To change the Constitution, section 128 requires a vote of the Australian people that achieves a double majority:

- a majority of voters nationally
- a majority of voters in a majority of states

She noted that enabling legislation must first be passed by the Parliament.

Delegates were also informed that referendum ballot papers require voters to respond to a question with a ‘Yes’ or ‘No’ vote.

## The vote

Facilitated by Lisa Wylie from the Australian Electoral Commission, delegates voted on the question.

**Question:** To alter the Constitution to allow a proposed law appropriating money for the ordinary annual services of the Government to be given royal assent and become law, if the Senate has not passed it within 30 days of its receipt?

### Referendum results

	Formal Yes votes	Formal No votes	Is the majority in favour?
New South Wales	14	9	Yes
Victoria	13	12	Yes
Queensland	9	14	No
Western Australia	5	10	No
South Australia	9	3	Yes
Tasmania	1	4	No
Australian Capital Territory	1	4	
Northern Territory	4	1	
National total	56	57	No

There is no change to the Constitution as the voting results did not satisfy a double majority as required under section 128.

## Convention official closing

The draft short communiqué, including the outcomes of discussions and the referendum, was presented to the President of the Senate, the Honourable Sue Lines, for tabling in Parliament and incorporation into Hansard.

The final long communiqué will be provided following completion and approval.

Delegates demonstrated strong engagement, with active participation across discussions, workshops and soapbox sessions.