

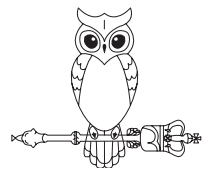
## The Independent Effect



The Independent Effect  
*Parliamentary contributions from  
the crossbenches in Australia*

Andréa Cullen

With forewords by Quentin Dempster and Philip Norton



PARLIAMENT PUBLISHING

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This book is dedicated to the ‘multitude of counsellors’<sup>1</sup> who work selflessly every day with integrity, commitment and dedication to model and uphold why parliaments matter and indeed why healthy, resilient and diverse democracies matter.

This book is also dedicated to all those who ‘believe that [p]arliament matters’<sup>2</sup> and ‘have the welfare of [p]arliament at heart’<sup>3</sup>.

1. ‘Where no counsel is, the people fall; but in the multitude of counsellors there is safety.’ [Proverbs 11:14].
2. Robert Rogers (retired from the service of the UK House of Commons in 2014. Former Clerk of the UK House of Commons from October 2011 until August 2014) and Rhodri Walters (retired from the service of the UK House of Lords in 2014. Former Reading Clerk). [Rogers, R and Walters, RH 2015, *How parliament works* (7th edn.), Routledge, New York.]
3. Commander Stephen King-Hall (founder of the UK Hansard Society formed in 1944 to promote the principles of parliamentary democracy at home and abroad and former independent member of the UK House of Commons—1939–1945). [King-Hall, S 1951, ‘The Independent in politics’, *Parliamentary Affairs*, V(I), p. 103.]



# Foreword

by *Quentin Dempster*

SO YOU WANT TO STAND FOR PARLIAMENT AS AN INDEPENDENT. ARE YOU motivated by a compelling cause which currently is not being addressed? Or are you just happy to jostle with others to get your snout in the troughs of these exclusive clubs? (Sorry for the cynicism).

Whatever your motivation *The Independent Effect* will give you the complete history of the phenomenon of parliamentary independents in Australia and elsewhere with insightful stats on their entry to and exit from the representative halls of legislative power.

Andréa Cullen's study shows that, fortunately for us, most of the successfully elected independents she categorises as 'stand alone' have been motivated by doing good for electors and their electorates, their state or territory and their nation. Most reveal themselves over time to be characters guided by integrity, decency and the need for governmental accountability. If they get in, many stay in. Through incumbency they can develop deep wells of trust with their electorates. One independent MP who enlisted in the Army at the start of WWII and became a prisoner-of-war in Changi was, in absentia, re-elected unopposed.

Some independents are what are called party drop-outs, people who have resigned from their major party membership while in office and continued to sit as declared independents. There is nothing in the current rules to prevent them from doing this. The real test is to retain their seats at the next election. People who do this are often considered to be vile 'rats' by the party and not the principled people they often claim to be. Some rise above the slurs. Others do not.

All independents have used the forms of Westminster parliaments—parliamentary privilege which protects them from defamation writs and civil suits, question time, private members' bills, standing committees, debates and adjournment speeches—to make sometimes significant or history-making contributions. That can happen particularly if they find themselves with real crossbench power when a major party finds itself in a parliamentary minority.

Independents are an affront to the domineering political parties. But as all members get to know them personally, many independents can have an ever greater impact through the respect their honest motivations can engender.

Overall the independent effect has been positive, giving electors a competitive choice in what has largely been Australia's entrenched major party politics.

Yes there is a big problem with major party politics, both here in Australia, and in other democracies.

This was identified at the outset in the new republic of the United States of America by one of its founding fathers and second president, John Adams (1735–1826): 'There is nothing I dread so much as a division of the republic into two great parties, each arranged under its leader and converting measures in opposition to each other,' Adams wrote. The 'turbulent manoeuvres' of factions could 'tie the hands and destroy the influence of every honest man with a desire to serve the public good'.

Precisely.

Now as contemporary public surveys confirm a distrust of party politics which are distorted by adversarial spin doctoring or propaganda often exacerbated by a media out for entertainment or clicks, attention should appropriately turn to the great need for unaligned representatives, not motivated by careerism, but by public service.

There are many hurdles in the way of the independent which the author identifies.

Money is one. In the United States of America an inquiry into political slush funding (donations from vested interests) in the early 1990s exposed a systemic problem: the need for candidates seeking election to Congress to build up formidable war chests to fund their election campaigns and keep them funded for re-election. Because of this, industries looking to influence or control policy development could easily compromise a potential member. Once elected members stay compromised. 'Every member of Congress has been forced to become a crook,' the inquiry found. This led to arms-length political donations funding reform and greater transparency. But such are the high costs of campaigning to win an election the bias of the game tends to the major political parties. Public funding has been introduced to try to mitigate the compromise and corruption risk.

For independents standing for the first time the internet revolution has produced the liberating innovation of crowd funding from supporters who want to break through the party political stranglehold. This should deliver greater democratic competition, but, as ever, money talks, and big money can be crushingly decisive.

Another hurdle is practical and physical support. If you want to run as an independent you should have as many people as possible willing and able to give up their personal time to help you. This hurdle eliminates a lot of would-be

independents from the get-go. The candidate's name might be on the ballot paper registered with and certified as eligible by the Australian, state and territory electoral commissions, but to build up and actually deliver a primary vote sufficient to survive a preference distribution from other candidates, you need all supportive hands on deck for door knocking and manning booths in pre-polls and on the big day. Preference 'whisperers', people who can orchestrate preference swaps in both majoritarian and proportional representation voting systems can now be seen at each election applying their skills. You have to be across this trick of the electoral trade.

Another hurdle is a sceptical and sometimes disapproving 'traditional' media. It is almost as if an independent is a subversive, out to upset the dogmatic simplicities of a mainstream media which can only deal with power blocs which know the assumed rules. Again the digital revolution, with its instantaneous social media reach and websites with clever and creative video, audio and animated graphics, can be used to cut through with relevant and satirical messages. Media invariably frame electoral contests in terms of in situ personalities and the likely winners and losers. For an independent, a strong personality and a galvanising local issue can be handy in breaking through expected major party pendulum swings invariably measured by pollsters as 'two party preferred' in terms of who will ultimately win executive government.

In this book you will read case histories of independents throughout our electoral history who best illustrate the independent effect. You will also meet ones who in some instances have gone against the majority views of their sometimes parochial constituents and still survived to be re-elected, such was the trust in which they were held.

By 2020 as people in many parts of the world struggle to protect their democratic and human rights, this book will help us to realise individual freedom in our own political system is crucial to the maintenance of our human rights under the just rule of our laws. A robust democratic parliamentary governance system should be celebrated now more than ever. We should stand in solidarity with those in struggles to protect democratic values.

And if you are thinking of running for parliament merely to get your snout in the trough, please forget it. You will disgrace yourself and bring in to disrepute the independent effect which, as this timely book shows, has been largely constructive to a functioning democracy.



# Foreword

by *Philip Norton* [LORD NORTON OF LOUTH]

SOME YEARS AGO, I GAVE A LECTURE IN SPEAKER'S HOUSE IN WESTMINSTER on the parliamentary career of Eleanor Rathbone. She sat in the UK House of Commons from 1929 to 1946. She was remarkable for several reasons. One was that she was a woman in a House dominated by men. Another was that she was an independent—a stand-alone independent in Andréa Cullen's terminology. The third, most remarkable of all given these characteristics, is that she was remarkably effective. She pursued various causes successfully and was acknowledged as being responsible for achieving a major piece of reforming legislation, the Family Allowances Act. One of her biographers, Susan Pedersen, said that she was the most significant woman in British politics in the first half of the 20th century.

She was one of a small number of independents, especially stand-alone independents, to sit in the House of Commons in the 20th century. As Andréa Cullen explains, independents were largely squeezed out by the development of mass-membership political parties. That they survived the advent of party government is itself remarkable, as is the fact that they have endured in various forms and with different impacts. They face challenges not encountered by those with a party label. They have to organise their own campaigns. Within the parliament, they lack the voting cues given by party whips. They cannot be present to listen to every debate in order to work out how to vote. One Independent MP in the UK House of Commons in post-war years was so frustrated whenever a division was called, and a friendly policeman popped his head round the door to remind him that a division was taking place, that he used to hide in the toilet when the division bell rang.

Independent MPs thus constitute a rich seam for study. Andréa Cullen's book is very welcome, both in terms of identifying the place and history of independent parliamentarians in parliamentary democracies as well as offering a typology to help make sense of the different forms that exist, rather than simply aggregating them under a singular label. As she makes clear, some 'Independents' are more independent than others. The focus is Australia, but the analysis travels well. It makes a valuable contribution to the literature.



# Contents

Preface	xv
1 Introduction	1
<b>Part one:</b>	
<b>Setting the scene—independents in parliamentary democracies</b>	5
2 What is an independent politician?	7
3 The road less travelled—obstacles for independents	13
4 Relevance and influence—the effect of independents on parliamentary democracies	29
<b>Part two:</b>	
<b>Exploring the independent landscape in Australia</b>	47
5 Not all independents are alike—a typology for independents in Australia	49
6 Independents in Australia—a statistical picture	67
<b>Part three:</b>	
<b>Standing alone—parliamentary contributions</b>	95
7 The picture of the history and place of stand-alone independents in Australia	97
8 Unpacking parliamentary contributions	105
9 Standing alone—parliamentary contributions	111
<b>Epilogue</b>	
10 ‘The promise’ and ‘the fulfilment’	159
Appendix A: Methodology of data collection and analysis	163
Appendix B: Australian elected independents, 1855–2019	167
Notes	177
References	201
Index	213

## FIGURES

Figure 4.1: A framework for understanding the political activity of an independent politician	34
Figure 5.1: A typology for categorising elected independent politicians in parliamentary democracies	56
Figure 6.1: All independents by jurisdiction	69
Figure 6.2: Stand-alone independents by jurisdiction	69
Figure 6.3: All independents by chamber type	70
Figure 6.4: Stand-alone independents by chamber type	70
Figure 6.5: All independents by jurisdiction and chamber	72
Figure 6.6: Stand-alone independents by jurisdiction and chamber	73
Figure 6.7: All independents by voting system	76
Figure 6.8: Stand-alone independents by voting system	76
Figure 6.9: All independents by decade	78
Figure 6.10: Stand-alone independents by decade	78
Figure 6.11: All independents by decade and chamber type	79
Figure 6.12: Stand-alone independents by decade and chamber type	79
Figure 6.13: All independents by election type and jurisdiction	80
Figure 6.14: Stand-alone independents by election type and jurisdiction	81
Figure 6.15: All independents by gender and jurisdiction	82
Figure 6.16: Stand-alone independents by gender and jurisdiction	83
Figure 6.17: All independents by electoral district and chamber	84
Figure 6.18: Stand-alone independents by electoral district and chamber	85
Figure 6.19: All independents by federal chamber and state/territory representation	86
Figure 6.20: Stand-alone independents by federal chamber and state/territory representation	86
Figure 6.21: Seat retain by types of independent	87
Figure 6.22: Seat retain by chamber and jurisdiction	87
Figure 6.23: Seat retain by decade	90
Figure 6.24: All independents by manner of going	91
Figure 6.25: Stand-alone independents by manner of going	91
Figure 6.26: All independents by manner of going (arranged by jurisdiction)	92
Figure 6.27: Stand-alone independents by manner of going (arranged by jurisdiction)	92

## TABLES

Table 6.1: Summary of Australian parliaments by jurisdiction, chamber and number of members	71
Table 6.2: Summary of Australia's current voting systems by jurisdiction and chamber	74
Table 6.3: Details of independent seat retains	88
Table 8.1: Members' contributions—collectively and individually—to a parliament's relationships	109
Table 9.1: Summary of profiled stand-alone independent members	112

# Preface

THIS IS A BOOK ABOUT INDEPENDENT POLITICIANS AND WHY THEY MATTER IN a parliamentary democracy—with an Australian focus. It examines the effect that independent members have on a parliamentary democracy—firstly, as it concerns relevance—offering the electorate an alternative form of representation to that sourced from major or minor parties at election time, and secondly, as it concerns influence and impact—once elected, the parliamentary contributions of these non-party members of parliament who sit on the cross-benches.

The effect demonstrates that independent members in a parliamentary democracy matter—firstly, because parliament matters, and secondly, because both inside and outside of parliament they fulfil tasks that add value to the political process.<sup>4</sup>

The book paints a statistical picture of the history and place of independents in Australian jurisdictions spanning more than a century. The finished canvas shows that independents are not a new phenomenon in Australia—they have been present throughout most of this time to the present day. It also shows they have not been localised to only some of the jurisdictions—they have been present in all of the nine jurisdictions—although there clearly have been times when circumstances have strengthened the electoral support for independents and have resulted in the election of higher numbers of independents in certain jurisdictions.

To those who know me, they will know my passion and scholarship for all things parliamentary and indeed my strongly held belief that parliaments—whether they be in developed, developing or emerging democracies—matter in so many ways.

The door to my parliamentary interest and scholarship was opened by Robina Jaffray and widened by Richard Herr from the University of Tasmania. It was grown and strengthened by an opportunity I had in 2013 to participate in the

4. Norton, P 2017, *Reform of the House of Lords*. Manchester University Press, Manchester, pp. 2–3.

UK Hansard Society's Hansard Scholar program—completing an internship with the UK House of Commons Public Accounts Committee and study at the London School of Economics and Political Science. During my time as a Hansard Scholar in the UK, I learnt more about the Hansard Society and met many special people dedicated to its important work; and I worked with the committed parliamentary officers supporting the important work of committees at Westminster—in particular the wonderful group of officers supporting the work of the UK Public Accounts Committee. I was also privileged to hear many distinguished speakers such as: Sir David Butler—a psephologist—who recounted his invitation and subsequent meeting with Winston Churchill to discuss the Cube Rule;<sup>5</sup> Joyce McMillan—a journalist with the *Scotsman*—who powerfully recounted the moment and significance for Scotland when the Scottish Parliament which had adjourned on 25 March 1707 (at the Act of Union) was reconvened on 12 May 1999; Dame Margaret Hodge, then Chair of the Public Accounts Committee who rekindled the Committee's status as the 'Queen of the Select Committees' calling countless officials to account for the spending of taxpayer's money; Sir Robert Rogers—the Clerk of the UK House of Commons at the time—on the occasion of the 650th anniversary of the appointment of the first Clerk—who reflected on the clerks who had come before him and which one was the most noblest and why—the answer was Jeremiah Dyson who was appointed clerk some 265 years earlier in 1748 and who not only provided a 'fantastic public service' but pushed through reforms to ensure that the next clerk was appointed on merit;<sup>6</sup> and the eminent legislative scholar Philip Norton (Lord Norton of Louth), who has been described as the UK's greatest living expert on Parliament, who spoke many times on why parliaments matter.

The Hansard Society, formed in 1944 to promote the principles of parliamentary democracy in the UK and abroad, was founded by Commander Stephen King-Hall. Its first subscribers were Winston Churchill and Clement Attlee. It was not until researching this book that I discovered Commander Stephen King-Hall had also been an independent member of the UK House of Commons.

The concept for this book started out looking at documenting the parliamentary contributions of some noteworthy Australian independents. The idea came whilst attending an event in September 2017 at the National Library of Australia—'A Month of Saturdays'—in conjunction with the *Saturday Paper*.

5. Whilst not devised by Butler, the Cube Rule was rediscovered by him and Butler subsequently popularised its empirical observations as it relates to the first-past-the-post plurality voting system.
6. To become Clerk of the House of Commons prior to Dyson's reforms, it was common practice to buy such public offices, rather than earn them by merit. Dyson, however, broke with this tradition and pushed through reforms so that no one would ever have to buy the Office of the Clerk again.

Clover Moore, as Lord Mayor of Sydney, was in conversation with journalist Karen Middleton, on her Lord Mayoral responsibilities.

As part of the conversation, Moore touched on some of the parliamentary reforms she had achieved together with fellow independents John Hatton and Peter Macdonald during her time as an independent member of the parliament of NSW's Legislative Assembly. As someone with an interest in parliamentary scholarship, at the time I thought it would be good to explore further the parliamentary contributions of independent members of parliament.

As so often happens, a focus can change and when embarking on the book, it became clear that before one could write about the contributions of certain independent members, the history and place of independent politicians in parliamentary democracies needed to be examined and established. This then became the focus of the book to give a context to profile selected independent members and their parliamentary contributions.

When one writes a book, as with parliaments, a multitude of counsellors are involved. This book would not have been possible without the encouragement and support of many people. I would like to specially acknowledge and show my appreciation to a number of people.

I want to thank my editors—my husband Adrian and my good friend Greg Hall—who both read countless pages of draft versions of the book and provided invaluable guidance and advice and always asked structured and focused questions, tested assumptions and challenged me to look beyond. I would like to express my gratitude and thanks to them both for their thoughtful and considered guidance, timely feedback, encouragement, words of wisdom and sense of humour. Also, a big thank you to my good friend Brian Lloyd and my nephew Max for their expert technical assistance and support.

I would like to acknowledge and sincerely thank all the independents who assisted me greatly in writing this book.

Sincere thanks to Quentin Dempster and Philip Norton for their support and encouragement and especially for their preparedness and finding time in their busy schedules to each write a foreword for this book.

Thanks also to Deborah Frankham and Jaime Rankin from Octavo for their wise advice, expertise and professionalism in bringing my manuscript to life, to Andrew Hingeley at Kinos Print for his helpful advice and the printing of the book, and to Sherrey Quinn from Libraries Alive for her indexing expertise.

Thank you to Joanne Barges from Visit Canberra and Melissa Holcroft from the Museum of Australian Democracy at Old Parliament House for permission to use the image on the cover of the book.

My special thanks—to my parents, Patricia and Gerry, and my brothers, Michael, Jonathan and Simon, and their families, who have always encouraged and supported me in all that I do—to my best mate, Tomica Gnjec, who has supported me at every stage of this book from its inception as an idea through

to its fruition—to her children Patrick and Emily who were the core members of the focus group for the cover photo—and to Emily again for her perceptive illustration.

My very special thanks to my husband Adrian, who in addition to his editing responsibilities, provided unconditional love, support, encouragement and the freedom to pursue this endeavour and who stuck with me through the best and worst of it—thank you in so many ways.

Numerous people to whom I am deeply grateful and truly lucky to have in my life have regularly inquired as to the progress of the book always offering support, encouragement and interest on countless occasions—you all know the significance of this book to me—thank you to you all.

I hope you enjoy the read. If parliamentary theory does not rock your world, go straight to Chapter 9 for the profiles of the ten stand-alone independents. As one of my editors said, he would have liked to have met several of these independents.

Any errors, omissions or misinterpretations in the book rest solely with me.

Finally, I would like to say that without parliamentary democracy this book would not have a purpose—democracy, which was famously described by Winston Churchill as the least worst form of government that has ever been tried, is a prized system of government that many emerging and developing countries aspire to and one that established democracies should never take for granted.

Andréa Cullen

Parliamentary scholar and author

# 1

## Introduction

*‘Where no counsel is, the people fall;  
but in the multitude of counsellors there is safety.’<sup>7</sup>*

IN THE ENTRANCE TO THE STATE PARLIAMENT OF VICTORIA IN AUSTRALIA, the aforementioned words can be seen on the mosaic floor of the vestibule. Although these words originate from a biblical proverb that is more than 2000 years old, they are directly relevant to any parliamentary democracy, no matter how old. The overarching principle being that a healthy democracy is reliant on the contributions of many stakeholders.

The Commonwealth of Australia and its six states and two of its territories are parliamentary democracies.<sup>8</sup> At the heart of a parliamentary democracy is representativeness and responsibility—in which citizens choose their representatives at regular elections to a parliament to act on their behalf and to represent their interests and concerns between elections (representative government)—and in which there is a political system where the executive government is drawn from and is accountable to the parliament (responsible government).

Inherent in the concept of parliamentary democracy are the principles that power should not be concentrated in the hands of a few; those responsible for governing are held accountable; that better decisions are made by seeking a wide range of advice from others and considering other points of view; and citizens not only get to choose their representatives at regular elections but that the system provides for a variety of choice beyond party politicians.

This is a book about the effect that independent members have on a parliamentary democracy by offering the electorate an alternative form of representation to that sourced from major or minor parties at election time and, once elected, by the parliamentary contributions of these non-party politicians.

The place and contribution of independents is examined in the context of parliamentary democracy—firstly, as it concerns relevance—offering the electorate an alternative form of representation to that sourced from major

7. Proverbs 11:14.

8. The six states are New South Wales (NSW), Victoria (Vic), Tasmania (Tas), South Australia (SA), Queensland (Qld), and Western Australia (WA). The two territories are the Northern Territory (NT) and the Australian Capital Territory (ACT).

or minor parties at election time, and secondly, as it concerns influence and impact—once elected, the parliamentary contributions of these non-party members of parliament who sit on the crossbenches.

The book is structured in three parts:

### **Part one: Setting the scene—independents in parliamentary democracies**

This part focuses on documenting the history and place (relevance) of independents in parliamentary democracies, including Australia. Chapter 2 explores at a broad level the place and context of independents and asks the question—*What is an independent politician?* In seeking to answer this question, it explores firstly, the evolution of independents in England and the UK, followed by the evolution of independents in Australia.

Chapter 3 explores the range of political obstacles that independents are faced with when seeking, holding and retaining office.<sup>(1)</sup> These obstacles can work against them, or sometimes with them. The obstacles can be grouped broadly into six categories—electoral; organisational; institutional; distributive; cultural; and perceptions of the value of independents. Each has fundamental disadvantages and, in some cases, advantages for an independent politician, compared with their party counterparts. Also, this chapter examines the questions—*What motivates an independent politician to stand?* and *Why do voters vote for them?*

Chapter 4 acknowledges that parties are relevant and influential participants in a political system. Democracy without parties would not be possible. This chapter examines the questions—*Do independents have relevance and influence in a political system as well?*—*What do independents have to offer a parliamentary democracy?*—and *Do they make an indispensable contribution to a parliamentary democracy?* In answering these questions, the chapter offers a theoretical framework from which to understand the world of independent politics and the independent effect—the impact of independents on a parliamentary democracy through their contributions.

### **Part two: Exploring the independent landscape in Australia**

Part two focuses on exploring the independent landscape in Australia. This part uses a unique data set specifically compiled and analysed to underpin and inform the writing of the book. Election results for all federal, state and territory parliaments from the time each jurisdiction achieved responsible government were analysed to record all candidates elected under an independent label of some kind. An extensive analysis of biographical information for each elected independent was then carried out to determine the context and extent of their independent status.

Chapter 5 provides a typology for categorising independents in Australia in parliaments. The typology identifies eight different categories of independent

members who have been elected to parliament as an independent at either a general election or a by-election. The organising framework for the typology is informed by the data set and is based on the affiliations or relationships independents have had, if any, with other politicians and/or formalised groups at any time during their political careers, especially when seeking, holding and retaining office.

The typology is based on Australian data for elected independents in different levels of government. However, it is not only applicable to elected independents in Australia in different levels of government, it also has wider application to independent candidates and to other parliamentary democracies overseas.

Chapter 6 presents data for two groups of independents in Australia—(i) all independents—this is the aggregation of all eight categories of independents set out in the typology for Australian independent politicians; and (ii) one of these categories—the stand-alone independents. Also, the chapter gives the findings of an analysis of the data across various parameters.

This chapter includes a focus on the stand-alone independents as they may be considered to be the purest category of independents in terms of the absence of affiliations or relationships with parties and groups because they have neither formed nor joined a faction, group or political party at any time during their political career. Also, independent politicians, in particular the stand-alone independents, do not ‘have a party structure behind them’ and parliament is therefore considered their party or ‘key forum’.<sup>(2)</sup> Stand-alone independents may therefore also be considered to be the members of parliament having the strongest relationship with parliament. Furthermore, statistically this category of independents is quite sizeable and accounts for about a quarter<sup>9</sup> of all independent politicians ever elected in Australia from the time of responsible government.<sup>10</sup> It is for these reasons that this chapter and part three of the book gives this category of independents additional attention.

### **Part three: Standing alone—parliamentary contributions**

This part focuses on profiling the history and place (relevance) of the stand-alone independents.

Chapter 7 considers in more detail the category of stand-alone independents and what it means to be a stand-alone independent in Australia.

Chapter 8 sets out an interpretive framework for assessing the parliamentary contributions of independents. This framework is used in Chapter 9 to assess

9. Fifty individuals. However, a figure of 51 has been used for statistical purposes—as one individual (Ted Mack) has represented two jurisdictions as an elected independent.
10. One hundred and ninety-nine individuals. However a figure of 205 has been used for statistical purposes—as five individuals (Ted Mack, Tony Windsor, Rob Oakeshott, Nick Xenophon and Reg Turnbull) have each represented two jurisdictions as an elected independent—and one individual (Richard Pennefather) has represented two separate houses in the same jurisdiction as an elected independent.

the contributions of ten stand-alone independents selected from Australian jurisdictions.

According to the framework, parliamentary contributions have two components—firstly, the type of representative role a member of parliament adopts—in terms of style and focus;<sup>(3)</sup> and secondly, how the activity of a member of parliament contributes to the two relationships that encompass parliament's functions—namely, its relationships with the executive and with the people.<sup>(4)</sup>

Chapter 9 profiles ten stand-alone independents who were elected to serve in the parliament of one or more jurisdictions in Australia since the introduction of responsible government.

The profiles provide biographical information about each of the ten selected independents and, consistent with the framework that was outlined in Chapter 8, present an assessment of the parliamentary contribution that each made.

## **Epilogue**

Chapter 10—the epilogue—reflects on the independent effect—the promise and fulfilment of independents in parliamentary democracies.