



RESEARCH REPORT NO 13: Parliament under Campbell Newman 2014

**Emeritus Professor Roger Scott
Executive Director
TJRyan Foundation**

INTRODUCTION

TJRyan Foundation Research Report No 1 evaluated the performance of the Newman Parliament in the period from its election in March 2012 until the end of the parliamentary sittings in 2013.¹ Research Report No 13 continues the story through the 2014 parliamentary year, starting with an overview of the topics identified in the earlier paper. It reviews the general conclusions and recommendations made at the end of that paper. In a separate paper, 'War and Peace: Queensland 2014', we will review each of the policy areas which attracted our attention at the end of 2013.

This Research Report focusses in particular on those elements of public accountability which are linked to Parliament and its formal constitutional role. It includes discussion on parliamentary procedures such as question time, the committee stages of legislation and the revised procedures for Estimates Committee hearings. We also focus on the Crime and Misconduct Commission (latterly the Crime and Corruption Commission) and on the Parliamentary Committee to which it reports.

Finally we draw on comparative commentaries about parliaments in other jurisdictions and pose the seemingly perennial question about whether both structural and ethical perspectives mean that Queensland really is 'different'.

¹ http://www.tjryanfoundation.org.au/dbase/upl/Queensland_Parliament_under_Newman.pdf

OVERVIEW OF THE 2012-2013 ANALYSIS

The 2013 parliamentary session drew to a tumultuous close with the Newman government using its overwhelming numbers to force through amendments to the role, membership and functioning of Parliament's anti-corruption watchdog.

2013 was a year in which Parliament witnessed frequent exercises of its majoritarian powers, including changes in procedure to ban any expressions of dissent within its precincts – lack of visibility being offset to some extent by televised proceedings and selected sessions of committee deliberations. However, with, initially, only seven members in the main opposition party (the ALP), the sheer weight of numbers allowed the balance of committee membership to be revised. More significantly, the LNP Government created the perception that any committee discussion at all was an impediment to rapid decision-making (later reified as 'Strong Choices'). This 'impediment' argument was used to justify frequent by-passing of the 'committee as a whole' stage in scrutinising legislation and the promulgation of Regulations, even on issues where there appeared to be no urgency apart from avoiding bad publicity (such as being seen to reward special interests).

The clearest example of this, still being cited as a grievance at the end of 2014, was the by-passing of the committee stage consideration of a meticulously researched report on the operation of the Queensland Workers Compensation Scheme. This was part of a concerted Government campaign against trade unions. The unions had been alienated almost immediately after the 2012 election by savage job cuts to the public sector and then a rolling sequence of cuts to services, all justified as opening up opportunities for the private sector to fill the gaps at presumed lower costs. Legislation was passed to restrict unions from spending their funds on campaigns which they conceived as safeguarding their interests but which the Government identified as 'political' and therefore a waste of members' money.

Similar legislation was passed to protect employer interests against their other prominent critics: environmental activists and those concerned with aboriginal land rights where they conflicted with mining interests. In another theme which continued into 2014, the Government appeared to favour particular businesses or individuals who had subscribed generously to the party coffers. Doubtless this was what the donors hoped for in return.

LAW AND ORDER - THE VLAD² LEGISLATION

Apart from proclaiming that 'Queensland was open for business', the other plank of the LNP election platform focused on 'Law and Order'. Our 2012-2013 Research Report describes in detail the series of legislative changes, relating notionally only to Outlaw Motor Cycle Gangs, including mandatory sentencing, impediments to freedom of association, removal of the presumption of innocence and discriminatory prison arrangements. This was backed up by measures to maximize penalties for 'out-of-control' social events in suburban backyards and streets and to keep in indefinite detention any sex offenders who had completed their sentence. Set-backs in courts of appeal were dismissed as proving how the judiciary was out of touch was community standards.

In the course of this confrontation, the LNP Government, and most notably the Attorney-General Jarrod Bleijie, became enmeshed in a wider dispute with the legal profession. The Government found sympathisers with two of their own appointments – Chief Magistrate Tim Carmody and Dr Ken Levy, the Acting Chair of the Crime and Misconduct Commission. Both delivered decisions or comments in support of the Government – in the former case advancing the Government's preferences by over-ruling magistrates, in the latter by intervening with a press article supporting the Premier's stance against the views of the Parliamentary Committee on the Crime and Misconduct Commission.³

ACCOUNTABILITY - AND THE SEPARATION OF POWERS

Critics came from across a wide spectrum of the legal procession all concerned about the undermining of the central doctrine of the Separation of Powers - including academics, practitioners, recently-retired judges, some already serving. Most notably, the Hon Tony Fitzgerald AC QC, the Chair of the Fitzgerald Inquiry into the Bjelke-Petersen government in the 1980s, whose report had led to the establishment of the accountability processes which the Newman Government appeared to scorn.

In our Research Report for 2012-2013 we wrote:

In 2013 we witnessed the re-creation the atmosphere of fear, suspicion and intimidation that some of us remember from the Bjelke-Petersen days. Parliament has become a rubber stamp for the Newman Cabinet. This erosion of basic democratic principles that we have witnessed over the past two years has been deeply distressing to observe.

² Vicious Lawless Association Disestablishment Bill 2013.

³ By the end of 2014, Levy was still Acting Chair despite allegations being investigated that he had misled a parliamentary committee and Chief Magistrate Tim Carmody had, controversially, been promoted to Chief Justice.

We provided five policy recommendations at the conclusion of our 2012-2013 Research Report which can be re-evaluated in the light of events during 2014:

1. the need to require bipartisan support before declarations of emergency or urgency can be used to circumvent normal committee deliberations;
2. the need for bipartisan support and transparency to ensure appropriately qualified appointments are made to the CMC and similar transparency and consultations with professional bodies in making other senior judicial appointments;
3. the need to implement the legislative requirements enshrined in adoption of the Fitzgerald Report recommendations on appointments to the Parliamentary Committee on the Crime and Misconduct Commission;
4. the repeal of legislation designed to inhibit the capacity of the union movement to act as an extra-parliamentary critic;
5. the repeal of legislation such as VLAD which undermines civil liberties and also the independence of the judiciary

It will be seen that none of these recommendations were implemented in full. On Recommendation 2, at the mid-year peak of his regime's unpopularity, the Premier committed to the vague notion of bi-partisanship over appointing the chair of the newly-named Crime and Corruption Commission (CCC). He then interpreted this commitment in a wholly unconvincing way to maximize partisan benefits.

On Recommendation 5, the Premier took encouragement from a judgment of the High Court upholding some elements of VLAD.⁴

⁴ As a general illustration of concerns about bias in public sector appointments, we used a cartoon in our 2013 which harked back to the Joh days and the controversy during his time over the appointment of the Chief Justice. We had no special insight allowing us to predict its more specific relevance in 2014. History will record that Joh fought a draw with the legal profession and a compromise candidate was appointed; by contrast, Newman had a convincing victory.

THE 2014 QUEENSLAND PARLIAMENT

PARTY GAMES

The year started badly for the LNP Government with a by-election in the seat of Redcliffe, vacated by LNP member Scott Driscoll, who had resigned in the wake of the parliament's ethics committee investigating his misuse of public funds and recommending in November 2013 that he be expelled and his seat declared vacant. The expulsion power had not been used before in Queensland, but the ethics committee had deemed it necessary 'to protect the honour and dignity' of parliament.⁵ In the by-election there was a swing against the LNP, and the seat was won by Yvette D'Ath ALP. So the year began with eight, rather seven ALP members.

The second by-election took place in July 2014, after Dr Chris Davis had been sacked from Cabinet in May, in response to his speaking against the Government on a number of matters. The Premier said Davis had failed to observe the cabinet convention that its decisions are unanimous, and assistant ministers are bound by it. Davis resigned from the Parliament on 23 May, sparking another by-election.



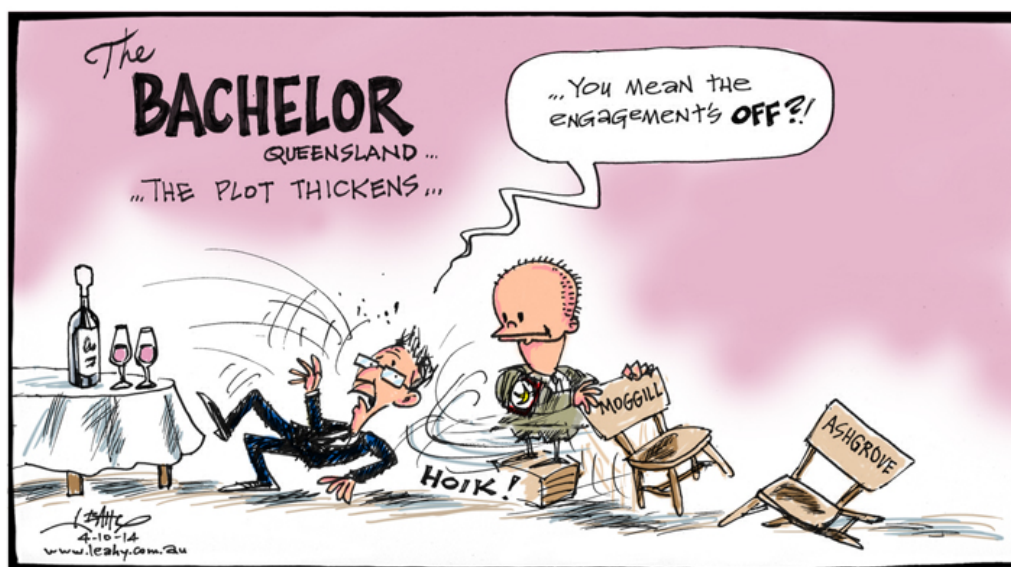
Dr Bruce Davis resigns, May 2014.
Cartoon reproduced courtesy of the artist, Sean Leahy

⁵ <http://www.abc.net.au/news/2013-11-19/parlcommittee-recommends-expelling-controversial-qld-mp-driscoll/5101774>

The Stafford by-election was held on Saturday 19 July 2014. Dr Anthony Lynham (ALP) won the seat with an 18.6% swing from the LNP. So by mid-2014 there were nine Opposition members - all of whom held numerous shadow portfolios.

The ALP conducted its pre-selection processes through the year, gradually announcing its candidates. The only public comment related to unfounded speculation about whether Kate Jones might not re-contest the seat of Ashgrove that she had lost to the Premier.

There were more problems for the LNP. There were ructions in the pre-selection of three sitting members of the LNP whose cases went to the state executive for approval after they had been involved in political misdemeanors of different dimensions, ranging from charges of nepotism to transmission of lewd images on social media. After presumably deciding that lewdness was no disability, the state executive decided that Peter Dowling could proceed to face the local pre-selection committee, only to discover that the committee disagreed.



Dr Bruce Flegg 'dumped' by the LNP executive
Cartoon reproduced courtesy of the artist, Sean Leahy

More spectacularly Dr Bruce Flegg, a former Liberal Party leader, was vetoed by the executive for preselection for the Moggill seat he had represented for many years. But in October the branch rejected the only alternative candidate Dr Christian Rowan, leading the media to comment 'LNP Member for Moggill Bruce Flegg could rise from the political grave after local party members rejected the party executive's hand-picked replacement'.⁶

This gave rise to the speculation, earlier fanned by Flegg himself, that Moggill had been identified as a seat which would serve as a secure life-line for the Premier. The Premier's future tenure of

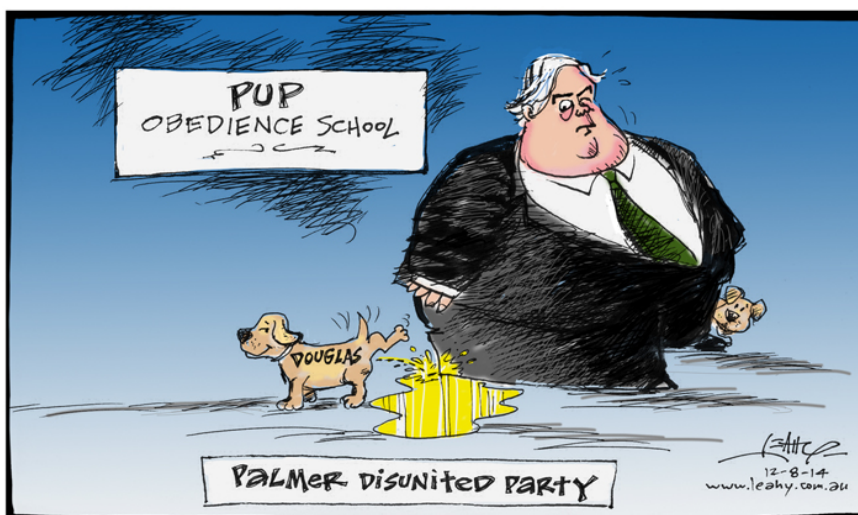
⁶ <http://www.brisbanetimes.com.au/queensland/shock-lnp-vote-lifts-flegg-from-political-grave-20141020-1190wp.html>

the marginal seat of Ashgrove has been called into question by successive polls. This has, in turn, created uncertainty among many parliamentarians about their future prospects and the likely direction the party might take should there be an enforced change of leadership. Leadership contenders quietly promoted their credentials while swearing undying fealty to Campbell Newman.

By the end of 2014, Newman appeared to have definitively ruled out moving from Ashgrove and was summoning support from major financial backers who had supported him in the past. He also pointed out to his local constituency with pride the exaggeratedly large amount of public funding which had been directed to local infrastructure.⁷

In the meantime, Flegg had strengthened his position when he faced off against the opponent endorsed by the central executive of the party. Days before the crucial meeting of the local pre-selection committee, he circulated to them (and to the media) a letter of commendation he had circulated for endorsement by his parliamentary colleagues. A large majority had signed, including the Premier, the Deputy Premier and the Treasurer; notable omissions were the names of Newman's two most credible replacements outside that list – Health Minister Springborg and Education Minister Langbroek, both former LNP leaders.

DEFECTIONS TO AND FROM THE PALMER UNITED PARTY



Problems for the PUPs in Queensland
Cartoon reproduced courtesy of the artist, Sean Leahy

There were also internal ructions within the Palmer United Party. Two LNP members had defected to Clive Palmer's party, in June 2013 after earlier leaving the LNP. Dr Alex Douglas (Gaven) and

⁷ <http://www.brisbanetimes.com.au/queensland/campbell-newman-to-remind-ashgrove-he-has-delivered-for-electorate-20140324-35d6k.html>

Carl Judge (Yeerongpilly) chose to sit as Independents and then identify with PUP. Douglas left the Palmer United Party in August 2014, followed by Judge in October. Both reverted to their status as Independents. This left the PUP with no official standing in the local parliamentary environment although it announced that it intended to endorse candidates for a range of seats.

Palmer's remaining attempt to influence the Queensland Parliament was to get the ALP and the Greens to support the establishment, at the end of September 2014, of a Senate Select Committee on 'Certain Aspects of Queensland Government Administration related to Commonwealth Government Affairs'. This Committee, chaired by Senator Glen Lazarus, held public hearings in November and was open to public submissions until the end February 2015.⁸

CONTEMPT FOR PARLIAMENT?

1 - LEGISLATION BY STEALTH

Despite by-election losses and defections, the LNP still held a massive majority in the House. Recommendation 1 in our earlier Research Report suggested that the Government's control over decisions to avoid sending measures to committee should be exercised only when genuine emergencies required it. This was persistently ignored in 2014, usually by setting tight time limits, hours and days rather than the weeks which might have facilitated genuine consultation with affected interest groups and informed media debate. In addition, where the committee stage had a more sensible timetable, the recommendations formed in a spirit of consensus were also frequently ignored.

An even greater abuse of process was the willingness of the Government to use its overwhelming numbers to introduce major amendments after the committee stage had been completed – a tactic often used at the end of late night sittings which minimized any capacity for public objections and media scrutiny. Apparently trivial amendments with limited scope could thus be opened up to major changes of coverage in the law, often to the advantage of specific beneficiaries.

Sometimes these changes were hidden in 'omnibus' Bills introduced as part of the Government's injunction to departments to remove from existing legislation 'red-tape' (often characterized as environmentalist 'green-tape'). Very precise performance indicators for each department were used to measure this success, often to the good effect of cleansing the Statutes of century-old dead letters, but occasionally with more immediate impact.

⁸ The Senate Committee's website, listing all submissions deemed 'relevant' to its terms of reference, can be found at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Certain_Aspects_of_Queensland_Government_Administration

An apparently mundane example of this emerged in a bundle of changes introduced at the end of the 2014 Parliament. On December 1, the *Sunshine Coast Daily* reported in the following terms:

Young car buyers are being warned they now have less protection from being sold a lemon because of 'ludicrous' changes to Queensland laws. The RACQ said State Parliament had scrapped the requirement for licensed dealers to provide a one month statutory warranty for vehicles more than 10 years old or those with more than 160,000km on the clock. RACQ Executive Manager Technical and Safety Policy Steve Spalding said it was a bad decision that effectively left some of Queensland's most vulnerable motorists with limited consumer protection. ...

Mr Spalding said the Government's justification that the removal of the warranty would reduce red-tape was ludicrous. 'This protection had been in place for more than a decade and had served car buyers well,' he said. 'The only people who benefit from the removal of the statutory warranty are the car dealers as they will no longer have to pay for repairs to cars they have just sold.'⁹

A much more significant issue of Ministerial intervention was substantiated at the end of the year as the result of a Right To Information request by the media. In June 2014 it had been reported that Karreman Quarries had avoided prosecution for unlawful sand and gravel extraction through retrospective legislation, despite departmental advice:

An aide to Mr Seeney even drafted a letter for him to sign on March 31 warning quarry owner Dick Karreman he lacked the permit required since 2010 for such quarrying. The letter was never sent. Instead, just days later, Mr Seeney ordered an amendment be drafted that made prosecution of Karreman Quarries impossible and authorised the company to extract sand and gravel at Harlin for a further five years.¹⁰

2 - QUESTION TIME

The 2014 Parliamentary sittings saw the continuing manipulation of Question Time to take advantage of the overwhelming numerical supremacy on the Government side of the house. There was relatively little of the Opposition theatrics which have characterized both houses of the national parliament, not least because such behavior tended to fall flat or be the subject of derision in front of such a large hostile audience.

The Government by contrast could use its dominance both numerical and procedural without restraint. This approach was captured in a press report on proceedings during which the Premier

⁹ <http://www.sunshinecoastdaily.com.au/news/young-buyers-be-hit-hardest-lemon-car-law-changes/2470028/>

¹⁰ <http://www.abc.net.au/news/2014-12-04/seeney-law-change-caught-own-officials-off-guard/5935504>

maliciously attacked the Independent member for Nicklin, Peter Wellington by urging him 'to stop showing active support for members of criminal motor cycle gangs'.¹¹ Newman then refused to offer an unconditional withdrawal until he had created sufficient chaos to ensure wide publicity for his accusations.¹²

On the other hand, the use of 'Dorothy Dix' questions providing Ministers with the opportunity to laud their achievements before admiring local members (and to be reported in the regional media) was a prominent feature, as was the use of tightly scripted answers. The Speaker tended to facilitate this, although with less obvious partisanship than that shown by her opposite number, in Canberra, Bronwyn Bishop.

This discussion had been sparked by a period of intense information management by the Government as it sought to focus attention away from the poor personal image of the Premier and and the Attorney-General Jarrod Bleijie, on to other achievements, a strategy labelled 'Operation Boring'.

If boring the public and the media was the aim, the strategy paid off. Otherwise unheard of back-benchers repeated identical questions for their electorates directed at different Ministers, complete with the approved slogans and catch-cries about 'the Strong Plan for growing businesses, helping the economy'.

The Newman LNP Government's 'Strong Plan' to revitalise front line services is delivering Queenslanders better access to health services and better education results' reads the briefing notes providing the 'message of the week' (leaked to Fairfax Media).

The Newman government is continuing its PR push to turn public perceptions around, with this week's plan to again focus on what it considers its education and health successes. Don't believe it? Its ministers will tell you. And tell you. And tell you.¹³

¹¹ The Speaker was unforthcoming when Wellington complained about the general processes of Question Time and the way in which the government was able to dominate proceedings. (<http://www.sunshinecoastdaily.com.au/news/mp-seeks-ruling-on-relevance/2412435/>). The Leader of the Opposition was more protective of the processes of Question Time when this issue of perceived bias and time-wasting was debated later in the year. (<http://www.brisbanetimes.com.au/queensland/no-nixing-dorothy-dixers-in-queensland-parliament-20141016-117c1t.html?>)

¹² <http://www.brisbanetimes.com.au/queensland/but-and-thrust-of-duelling-pollies-20141014-11608e.html>

¹³ See <http://www.brisbanetimes.com.au/queensland/leaked-briefing-tells-mps-to-spruik-uniform-message-20140825-1089xh.html#ixzz3J1L3zA4!>; and <http://www.brisbanetimes.com.au/queensland/langbroek-plays-nostradamus-as-the-chorus-plays-for-the-conductor-20140826-108reo.html?>

3 - ESTIMATES COMMITTEE HEARINGS

Estimates Committee hearings are intended to offer a much more searching analysis of Government policies and an opportunity for Oppositions to establish their credibility as informed critics. As we pointed out in our 2012-2013 Research Report, the Government had already used the opportunity of unbalanced party representation to expand the size of committees. It then announced that, in the interests of economy of effort and cost-cutting, hearings from all Estimates Committees would be compressed into a two-day period rather than devoting a separate day for each of the portfolio-specific committees.

As was undoubtedly intended, this put pressure on both the media and the limited number of Opposition members on the committees, and took pressure off individual Ministers. Even so, some of the lesser lights had problems in coping.¹⁴

As we reported at the time¹⁵, this process had the potential to descend into farce. As part of the atonement process linked to 'Operation Boring', the Premier announced that the idea had only ever been treated as a pilot and would be abandoned in future.¹⁶

4 - PARLIAMENT AND ANTI-CORRUPTION MECHANISMS

A longer-running and potentially more damaging saga confronting the Government was its reform and restructuring of one of the most significant parliamentary devices for ensuring accountability in Queensland – the Parliamentary Crime and Misconduct Committee (PCMC).

During 2013, there had been two inquiries into the then Crime and Misconduct Commission (CMC) and the Government had largely supported a set of recommendations to change the name and focus of the organization. It became the Crime and Corruption Commission (CCC), shedding lesser concerns for misconduct, which were devolved back to government departments, and inserting a stronger role for the Attorney-General in determining its research agenda.

At the end of 2013, disagreement over these proposals expressed by Liz Cunningham, the long-serving Independent member chairing the PCMC, was used as the justification to dismiss the

¹⁴ <http://www.brisbanetimes.com.au/queensland/stuck-on-an-answer-ask-someone-else-20140721-zvg5b.html>

¹⁵ See Research Report No 6 http://www.tjryanfoundation.org.au/dbase_upl/Estimates_July_2014.pdf

¹⁶ See also media reports on the 2014 Estimates hearings at: <http://www.brisbanetimes.com.au/queensland/voices-break-and-critics-decry-budget-estimates-hearings-20140718-zuale.html>, and <http://www.abc.net.au/news/2014-07-15/qld-budget-estimates-campbell-newman-annastacia-palaszczuk-clash/5596202>

whole committee, which was then re-formed under an LNP Chair with the same partisan balance as before and much the same membership (apart from Cunningham).

An implementation committee had been set up by the Government to assess the relevance of the findings of the two investigatory committees. It attracted a range of critical submissions, including one from Tony Fitzgerald, the author of the anti-corruption changes which had led to the original creation of a committee responsible to parliament.

In May, the *Brisbane Times* reported the following:

The Government has been given the green light to make its changes to the Crime and Misconduct Commission, including removing the need for appointments to receive bipartisan support – despite strong opposition from former commissioners and the legal community.

The Legal Affairs and Community Safety parliamentary committee has recommended the Attorney-General's CMC amendments be passed in a majority decision.

Non-government committee members, Labor's Bill Byrne and Independent MP Peter Wellington did not agree with the committee's decision and wrote a dissenting report, claiming the Bill was 'a signal to Queenslanders that the Newman government is prepared to let Queensland return to the bad old days of the Bjelke-Petersen government where corruption and misconduct were able to flourish'.

The remaining committee members, chaired by LNP MP Ian Berry, concluded the Government's amendments were sound and in line with the recommendations of the two reviews into the CMC and its procedures.

Despite strong and vocal opposition to removing the requirement for bipartisan support for commission appointments, the committee was not convinced that the need for a joint tick-off still existed. It found that the model used by the New South Wales Independent Commission Against Corruption, in which the Minister refers an appointment to the oversight committee which had the power to veto an appointment, 'was appropriate'.¹⁷

The rest of 2014 was marked by the CCC occasionally surfacing with reports on on-going cases and contributing informally to the work of other police security organisations. But the key position of Chair remained unfilled. The Acting Chair, Dr Ken Levy, had been widely criticized for his pro-government stance in a press article, and he was then accused of misleading the PCMC about

¹⁷ <http://www.brisbanetimes.com.au/queensland/queensland-governments-cmc-changes-get-green-light-20140430-37hzt.html>

meetings 'over how much contact he had with government media officers prior to publishing an opinion piece which supported the LNP's anti-gang laws'.¹⁸

This specific charge was referred to the Parliamentary Ethics Committee and thence to the Queensland Police in May, where it rested without resolution throughout the year.

Levy's term of appointment as Acting Chair had been extended until November 'to ensure a smooth transition period'. Despite being declared eligible by the Premier, he announced he would not be a candidate for the permanent position. The post was advertised and selection processes were conducted within the office of the Attorney-General.

There was on-going public concern about the danger of this appointment being perceived to be partisan. Robert Needham, a former Chair of the earlier Crime and Misconduct Commission had written to the implementation committee with this warning:

Public confidence in the commission's independence will only exist if these senior appointments are seen by all sides of politics, by the media, by the staff of the Commission and by the public to have been made without any suggestion of political favour. ... The only attempt at a rationale that I have heard was in a statement by Mr Bleijie in a television interview where he stated words to the effect that the removal [of the bipartisan requirement] would 'take politics out' of the appointment process. This statement is either naive or disingenuous. Rather than taking politics out of the appointment process, the removal of the requirement for bipartisan political approval will ensure that the appointment is seen as political.¹⁹

Mr Needham's warnings proved accurate. At first the Premier and the Attorney-General declined to embrace any notion of bi-partisanship at all. Then, in the brief period of 'atonement' when various policy concessions were offered, the Premier announced that he would accept Opposition input into the decision. In practice, this proved to be a false dawn.

When Premier Campbell Newman had announced in July that he was reinstating bipartisanship, he called on the Opposition to respond sensibly: 'We'll go through a formal recruitment process and the Opposition will have their say in that and they will have to ultimately, essentially they'll have a right of veto,' Mr Newman told 612 ABC Brisbane. 'But I hope they can be sensible about it, I call for them to do the right thing in approaching this and I would assume that they would'.²⁰ Opinions obviously differed over what seemed sensible in the circumstances, and what 'having a say' meant. The common-sense meaning of this commitment was that the Leader of the

¹⁸ <http://www.brisbanetimes.com.au/queensland/police-investigating-cmc-acting-chair-20140509-zr8br.html>

¹⁹ <http://www.brisbanetimes.com.au/queensland/former-cmc-boss-pans-watchdog-changes-20140402-35xty.html>

²⁰ <http://www.abc.net.au/news/2014-07-23/campbell-newman-calls-labor-be-sensible-in-ccc-chair-appointment/5616978>

Opposition would be consulted confidentially and her endorsement sought before any decision was published.

The Government chose to use instead the system which applied to the NSW Independent Commission Against Corruption. A candidate with an apparently suitable and bi-partisan history of working as a special counsel for the parliamentary committee overseeing the CMC/CCC was identified.²¹ This name was then placed before an LNP party meeting, then leaked (as doubtless intended) to the media. Only then was it proffered to the Leader of the Opposition who declined to comment in advance of getting advice from the members of the Parliamentary Committee. The advice from the two ALP members was that the candidacy should be rejected, essentially on procedural grounds : there was no element of bipartisanship in being presented with a public fait accompli.²²

5 - CAMPAIGN FINANCES AND POLITICAL DONATIONS

A persistent theme throughout the life of the 2014 parliamentary year was the issue of the limits of, and accountability for, political party and electoral donations.

Alex McKean and Stephen Keim, two persistent, legally-qualified critics of the Government, reported on a long list of allegations back in August:

There have been revelations, this week, of another cash for legislation deal involving the Newman Government. But, like those that have gone before, it has just been shrugged off by those involved.

The *Australian Financial Review* has revealed that the largest single donor to the Queensland LNP was granted approval to dredge his Airlie Beach marina, close to the Great Barrier Reef, a week after making a donation of \$150,000. Billionaire Paul Darrouzet, a former mining magnate who owns the Abell Point marina in Airlie Beach, made the donation in two installments through his privately owned investment company. He has yet to individually declare the payments to the Electoral Commission.

A week after the payments were made, the Queensland Department of Environment and Heritage Protection amended the environmental authority relating to the marina, allowing the dredging of 100,000 to 200,000 cubic metres of material.

²¹ Mr Favell, a barrister with a background in commercial, property, defamation and media law, was appointed to the Parliamentary Crime and Corruption Commissioner role by the former Labor Government in August 2011. He has practised for more than 30 years and has served as a Crown Prosecutor and on tribunals including the Commercial and Consumer Tribunal and the Queensland Civil and Administrative Tribunal.

²² <http://www.brisbanetimes.com.au/queensland/pccc-rejects-favell-as-crime-watchdog-boss-20141028-11d1j4.html>

But Andrew Powell MP, the Queensland Environment Minister, is reported to have strongly denied any link between the donation and the dredging approval, saying it was '... an outrageous link to be making'.

This is the latest in a string of allegations about apparent cash for legislation deals under the Newman regime that have garnered a headline or two before disappearing back into the white noise.

Earlier this month, reports emerged that the company which took over court transcription services in Queensland, Auscript, had made donations to the LNP. Since Auscript had won the contract, the costs to users of the courts had increased very significantly.

In June 2014, the ABC broke the story that Karreman Quarries had donated \$75,000 to the Queensland LNP coffers and then avoided prosecution for unlawful sand and gravel extraction when a retrospective legislative amendment was quietly passed by the Government. Despite the investigating body finding evidence to support a prosecution of Karreman Quarries, shortly after a meeting with the Deputy Premier Jeff Seeney, legislation was passed which, retrospectively, declared Karreman's activities to be legal, and '... to always have been legal'. ...

Possibly the most serious allegations have been those involving Sibelco, the Belgian company conducting sand-mining on Stradbroke Island. Sibelco made an undisclosed donation of \$90,000 to fund a misleading letter-writing campaign directed at Premier Newman's electorate of Ashgrove in 2012. Following the donation, the Newman Government passed legislation, apparently drafted by Sibelco. That legislation is intended to enable an extension of sand-mining leases on Stradbroke Island from 2019 until 2035, which is likely to enrich Sibelco by \$1.5 billion. The ALP has referred Sibelco to the Crime and Corruption Commission (CCC) for investigation. There are, however, indications that the CCC may be ill-equipped to get to the heart of the controversies that Government spokespeople so easily and blithely put behind them.²³

The same theme was being pursued right at the end of the parliamentary year in a submission to the Senate Inquiry set up at the behest of the Palmer United Party. A former Assistant Minister of Health, Dr Chris Davis, who had become alienated from the Newman Government and resigned his seat (sparking the by-election in Stafford) argued that the lack of transparency in donations was damaging the integrity of the whole system of parliamentary government. His complaint focused on changes to electoral donations which raised the cap from the \$1,000 to \$12,400 and lifted the electoral spending cap so that political parties can spend as much as they want in the forthcoming

²³ <https://independentaustralia.net/politics/politics-display/qld-lnps-donations-for-deals-move-on-nothing-to-see-here.6794>

election.²⁴

When this change had been debated earlier in Parliament, the leader of the Opposition expressed similar concerns and sought to reverse the situation, promising she would adhere to placing all ALP donations above the \$1000 limit on the public record. This was then incorporated into the first item on the ALP's election manifesto, linked to measures concerning impartiality in the appointment of judges and specifically the head of the anti-corruption commission reporting to Parliament.

The response from the Deputy Premier was to deride this priority compared to the bread-and-butter issues of living costs, jobs and public investment, 'the things that really matter to Queenslanders'.²⁵

In a contribution to the national conference of a Study of Parliament Group in Sydney, Ann Twomey, Professor of Law at the University of Sydney discussed some of the challenges of regulating the capacity of groups and private interests to exercise their democratic right to participate in the political process through campaign contributions.²⁶

She concluded that 'the regulation of campaign finance laws is fraught with both constitutional and practical difficulty. This is not, however, an excuse for doing nothing. Reforms that are carefully considered and clearly aimed at legitimate ends such as preventing or reducing the risk of corruption will be valid. The real difficulty lies in ensuring the laws are made for this purpose alone and not manipulated to the advantage of particular political parties'.

²⁴ <http://www.brisbanetimes.com.au/queensland/donations-and-election-advertising-eroding-public-trust-chris-davis-20141013-115jq2.html>

²⁵ *Courier-Mail*, Brisbane, 2.07.14.

²⁶ [http://www.parliament.nsw.gov.au/prod/web/common.nsf/cbe381f08171c2e8ca256fca007d6044/713b7c74bcb60254ca257d65002c21ea/\\$FILE/ATT9FYRJ.pdf/Session%203%20-%20Prof.%20Anne%20Twomey%20-%20The%20High%20Court%20on%20Election%20Funding.pdf](http://www.parliament.nsw.gov.au/prod/web/common.nsf/cbe381f08171c2e8ca256fca007d6044/713b7c74bcb60254ca257d65002c21ea/$FILE/ATT9FYRJ.pdf/Session%203%20-%20Prof.%20Anne%20Twomey%20-%20The%20High%20Court%20on%20Election%20Funding.pdf)

CONCLUSIONS

This same conference raised a number of other issues relevant to Queensland.²⁷ A contribution from the Clerk of the NSW Parliament, David Blunt, served as a reminder of how better-behaved legislatures actually performed.

He concluded that parliamentary debate was still critical for democracy, even in chambers where parties had fixed positions and little incentive to move. A key pre-requisite was respect for ‘the existence of long-standing rules and conventions which provide a framework for measured and respectful parliamentary debate. ... Such an environment does not arise by accident, though, and its maintenance requires commitment and vigilance on the part of all participants and their leaders’.

The leaders of the LNP, the dominant party in the Queensland Parliament, saw little need for restraint, given their massive majority, a supportive Murdoch newspapers²⁸, and the absence of an upper house. Respect for conventions and words like ‘measured and respectful debate’ belonged in a different universe from Queensland. A recent documentary history of the Country/National Party emphasised the way Queenslanders pursue politics differently from the rest of Australia. When the conservatives are in power the conduct of the Queensland parliament tends to mirror this difference.

²⁷ <http://www.tjryanfoundation.org.au/cms/page.asp?ID=501>

²⁸ Online media were becoming more diverse. The Fairfax-owned *Brisbane Times* kept a close watch on the Government, and *The Guardian (Australia)* also carried some articles about Queensland. So the Internet weakened the thought-control exerted by the paper-based, or pay-wall protected, Murdoch press.