

RESEARCH REPORT NO 10

Parliaments in Perspective: Lessons for Queenslanders from the Australian Study of Parliament Group conference (Sydney 2014)

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Background

The Australasian Study of Parliament Group (ASPG) is supported by all the parliamentary jurisdictions of Australasia and most have active groups linking politicians, parliamentary officers and academic researchers. Oddly there is no group activity in Canberra (or Adelaide) but Queensland has been one of the standard bearers since the inception of ASPG. The recent annual conference in Sydney confirmed Queensland's commitment, with the largest of any delegation of serving politicians (eight) plus a Parliamentary staff member, the retiring Integrity Commissioner and two senior officers of the TJRyan Foundation.

This overview examines a range of papers for their salience to Queensland. Links to the papers are included.

The opening session was devoted to the emerging parliamentary democracies in the Pacific Islands and underlined for Queenslanders the diversity of experience which can occur within the same nominal institutional structures of parliaments, parties and executive governments. Papers on Fiji, Samoa, Papua New Guinea and Bougainville all discussed the hidden order often based on strong traditional loyalties which operated in various manifestations of 'disorderly democracy'. In the Queensland context, one could speculate along these lines about the continuity of a Country/ National political identity and the persistence of union-based and ideological factions within the ALP.

The second session provided a stark contrast between the perceived chaos of recent national Australian election results and possible explanations and policy responses from **Anthony Green**, the altogether more sedate experience of New Zealand despite a complex preferential electoral system and reflections of NSW politicians and parliamentary officers drawn from both lower and upper houses.

The third session also included an erudite analysis by Professor of Constitutional Law, **Anne Twomey**, 'The High Court on Election Funding - Legitimate Ends and the Validity of Reform'. The arguments described here have potentially wide-ranging implications for the funding and conduct of Queensland as well as national elections. Its topicality was particularly relevant to NSW with its discussion of bans on political donations by particular types of donors - in its current manifestation, bans on property developers.

Her final remarks could equally apply to the attempts to muzzle the trade union movement in Queensland. Twomey concluded:

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 these purposes alone and not manipulated to the advantage either of particular political parties, or to the benefit of parties generally over the ability of third parties to have their say in political debate. Laws of these kind have been struck down twice by the High Court. That ought to be a clear warning about how such laws should be framed in the future.

Measured and respectful parliamentary debate?

The lessons for Queenslanders were particularly pointed in the contribution of **David Blunt**, Clerk of the NSW Parliament. In a paper entitled 'Parliamentary speech and the location of decision making', Blunt examined some of the reasons why the PR-elected upper house, the Legislative Council, could conduct itself in a demonstrably sensible manner. The contrast with the vindictive and arrogant behaviour of a government with a vast majority in a unicameral Queensland parliament did not need to be pointed out by an author who is scrupulously conscious of his non-partisan role.

He started with a perceptive theoretical framework analysing the ideal-type of deliberative democracy and noted that 'democratic legitimacy rests on authentic deliberation' and that such deliberation depended, in turn, on both institutional and behavioural factors. A key source of tension existed between an executive model which focussed on stability and efficiency and a liberal model which required governments to justify their actions - about the appropriateness of legislation, the expediency of government policy and accountability for administrative actions.

After examining a series of case studies drawn from the NSW Upper House, Blunt then identifies the purposes of parliamentary speeches which include:

1. seeking to influence public opinion, particularly through traditional media reporting or circulation of speeches on social media;
2. encouraging party supporters by reflecting and espousing their view;
3. party leaders encouraging, rousing or reassuring backbenchers;
4. ambitious members seeking to impress party colleagues with a view to influencing future decisions about positions to be allocated or even future leadership; and
5. influencing pre-selectors

These purposes were pursued in the context of a chamber where the Premier did not have a reliable permanent majority and a committee system where a wide range of opinions could be offered on any particular issue. Outside the chamber, there were opportunities for internal party debate. This contrasts starkly with Queensland where the attitudes as well as the institutional

realities of an overwhelming majority stifled real debate in any forum and the committee system in which Blunt places great confidence has been perverted.

This contrast also extended to the nature of speech and behavioural norms, including governments resisting the temptation to use the gag on discussion except as a last resort and the consistency and non-partisanship of adjudication by the Chair. As Blunt remarks

Other conventions, such as that prior to speaking in debate members should be in the chamber to listen to the contribution of the preceding speaker, so as to be able to respond to that speech, and the following speaker, so as to listen to any responses to their speech, are premised upon parliamentary debate being dynamic and deliberative...the existence of written Standing Orders and long-standing conventions is not sufficient, on its own, to ensure that debate is conducted in a proper manner.

Blunt's four conclusions are optimistic about the future of parliamentary debate in the NSW context, believing that it continues to fulfil critical functions even in chambers where parties have fixed positions and little incentive to move. One reason for this is:

the existence and 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 the commitment and vigilance on the part of all participants and their leaders.

Words like 'measured and respectful parliamentary debate' belong in a different universe from that inhabited by Queensland politicians.

A crisis in representative democracy

Two brief papers from political science professors of the University of Sydney provided the 'stand-out' session of the conference and deserve to be read in their entirety (see links below this article).

Professor **Simon Tormey** drew on his wide experience of European systems, particularly Spain as well as his native Britain, to argue that 'we have entered a "post-representative" moment when faith or hope in current representative styles and models of politics is fast waning'. All of his generalisations from other systems applied with great force to Queensland - the steep decline in participation in mass party organisations, the decline in interest which has been fed in turn by superficiality in media coverage and particularly the decline in trust leading to aggressive contempt for politicians. The record of broken promises by leaders at state and national level has particular poignancy when viewed through the prism of Queensland experience.

Professor **Geoff Gallop** brings a different perspective, drawing on service in the Western Australian Parliament including an extended period as Premier. Before that, and now afterwards, he has been a leading academic political scientist. His focus was upon the contrast between 'insider' and 'outsider' views about the workings of Australian democracy. He concludes that there is a 'great stalemate over reform which is unlikely to be broken because of the capacity of vested interests to block action on the big and 'wicked' policy challenges- identified as 'climate change, international instability and jihadism, competitiveness and unemployment'. Professor Gallop has agreed to give the keynote address at the next TJRyan Forum, to be held in February 2015.

Gallop identifies both management problems within government and external problems associated with the mechanism of democratic representation and accountability - especially the nature of election campaigns and the role of the judiciary in protecting the rule of law and the public interest. He offered valuable insights into the internal dimensions of major parties and the structural dimensions of the federal system within which they function. His general pessimism was tempered by the belief that progress can be driven from the bottom up as citizens begin to expect greater use of participatory and consultative mechanisms both within parties and in the wider community.

The representative process: inclusions and exclusions

The major entertainment value for academic bystanders came in sessions which provided input from practitioners of the various dark arts associated with candidate pre-selection. There was a fascinating contribution from **Glenn Druery**, whose capacities to 'wrangle' preferences of minor and micro-parties led him to national prominence, although he had earlier enjoyed signal success in the NSW upper house, facilitated by its electoral mechanism of ballots 44 members from state-wide constituencies. We also heard from **Senator Leyonhjelm**, asserted to have benefitted from confusion over party nomenclature, from **Tony Smith**, chair of a parliamentary committee reporting on its analysis of the shortcomings of the last federal election, and from Greens and ALP members.

There was also a detailed report from the Deputy State Director of the Nationals, **Greg Dezman** on the experiment in community preselection by the NSW Party during the 2011 state election. To select a candidate to contest a seat based in Tamworth then held by an Independent, the Nationals supplemented their normal party-member ballot with an open community ballot in which over 4000 citizens participated. After an earlier disappointing experiment in Victoria, Tamworth was deemed a resounding success, reinforcing the Nationals' proud claim that 'the NSW Nationals have always been one of the most democratic parties in Australia'. The gloss was diminished at the table of Queensland MP's when their phones came alive with news from the north about the exclusion by the party machine of the member for Moggill, Bruce Flegg, from the forthcoming preselection processes.

Exclusions and inclusions was the underlying theme of the final papers of the conference, located as the chair described it on 'the graveyard shift'. I am sure the program organisers did not intend the symbolism - leaving disadvantaged minorities to the edges of the discussions. Three papers were provided - **Michael Tatham** on the growing significance of aboriginal members in the Northern Territory Legislative Assembly, **Marian Sawer** reflecting on the value of specialised parliamentary bodies in promoting gender equality, and the only contribution from a Queensland MP, **David Gibson**, LNP Member for Gympie, reflecting on the limits of current parliamentary structures and attitudes with a paper entitled 'Disability, inclusion and democracy - an uncomfortable fit'.

All three papers raised questions for Queenslanders and the expectations of how representative democracy might function to overcome these inequalities. Gibson, for example, concludes

It is generally recognised that the strength of the Westminster style of democracy is that it recognises and protects the value of equality for each individual. Parliaments, elected representatives and Governments at all levels have undertaken a vast body of work to try to ensure that they engage with all individuals in their society so that they can truly be said to be a 'representative democracy'; however it is evident that there is still ongoing work needed to ensure that voices of people with disabilities are properly involved.

As Gibson also noted more generally, ‘in a modern and thriving democracy such as we have in Australia, the right to vote and to engage in democratic processes is widely recognised as a fundamental human right’. The ASPG conference theme posed the question: “How representative is representative democracy?”. As the conference progressed, the evidence here suggested that there are major faults in urgent need of treatment.