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Parliamentary Government Under Threat?
Contemporary Challenges to Liberal Democracies



*Relevance of Parliament
as an Institution of Change*

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Should Parliament be a leader or a follower when it comes to change – especially social change?

There is no reason for Parliament to be an unbending institution weighed down by centuries old tradition; rather it can reflect the vibrancy and diversity of the community it represents.

Not all the community would agree with a non-traditionalist approach, and I quote a letter from the Victorian Herald-Sun the day after I was elected as Speaker of the Victorian Parliament.

“Feminist Insult”

The election, or rather Labor majority appointment, of Judy Maddigan as the Speaker of Victoria’s Legislative Assembly is an insult to the people of Victoria and the tradition of one of our nation’s oldest political houses.

In appointing Maddigan, a self proclaimed feminist radical, Steve Bracks has again bowed to his socialist superiors.

Maddigan, who refuses to be addressed as Madam Speaker and has snubbed the centuries-old dress of her office, is bad news for the Parliament and bad news for the people of Victoria.

Brendan Rowswell, Beaumaris¹

Introduction

Parliamentary democracy in Australia is based on the “Westminster model”, which has guided the development of responsible government in Victoria since 1851.

One of the fundamental roles of the Parliament is to provide a voice or forum for the people, via their elected representatives. The 20th and 21st centuries have been eras encompassing enormous social change and there is a need for the rules and procedures of the Parliament to reflect this.

Parliament has a dual role, both to institute change through legislative processes and to reflect change in community needs and expectations. The need for change often manifests as the failure of an institution to respond accurately to what the community needs and expects. Recent challenges faced by the Parliament of Victoria, and no doubt other Parliaments, are family friendly hours, environmental issues and the advancement of technology.

Meeting such challenges should be a process which considers our earlier description of Parliament as a forum or voice for the people and as such change should be both consultative and reflective.

¹ Letters to the Editor – Melbourne Age newspaper, 27 February 2003

Historical Change

Historically, one of the most notable occurrences of blended cultural and legislative change was the introduction of the “Secret Ballot” in 1855 by Victoria's first Legislative Council².

During the passage of the 1855 Elections Regulation Bill, William Nicholson³ moved:

“That in the opinion of this House, any new Electoral Act should provide for electors recording their votes by secret ballot.”

Prior to this introduction casting a vote during elections in the newly formed and independent Colony of Victoria was not a private affair.

Candidates and their supporters could watch how individuals voted, and keep a tally of how a candidate was performing. If a candidate was falling behind in the polls, supporters had the opportunity to round up more voters so that the candidate had the best possible chance of winning.

Candidates running for election would also offer food and drink to the public entering the place of polling – ostensibly not as a bribe – but as a means to encourage good will.

It was felt that the introduction of a “secret ballot” would lead to a process associated with democracy, incorruptibility and protection, thus encouraging more voters to participate.

To ensure the feasibility of the “secret ballot” as a confidential process, the legal skills of Henry Chapman⁴ were employed in the drafting of the legislation. Chapman’s key proposals were that;

- voting would be cast in a private single booth,
- names to be registered as to who had cast their vote, and,
- all votes cast should be placed in a locked box.

The motion, moved by William Nicholson, was carried 33 to 25, the Elections Regulation was passed and the secret ballot became integral to voting in Victoria.

From these modest beginnings, the secret ballot continued to spread throughout Australia, the British Empire, Europe and North America.

Today, around the world, the “secret ballot” is better known as the “Victorian” or “Australian” ballot.

² Victoria's first Legislative Council formed in 1851 until 1856 and was then prorogued to form the current Parliament of Victoria

³ Member of the first Legislative Council and elected representative of North Bourke

⁴ Member of the first Legislative Council and elected representative of South Bourke

Legislative Change

During the 2002 Victorian electoral campaign, the Bracks Labor Government campaigned heavily for parliamentary reform to the Legislative Council (Upper House). The proposed changes aimed to strengthen Parliament by making the institution more representative, more accountable and more in touch with the Victorian community.

Victorians agreed and on 30 November 2002, the Bracks Labor Government was returned with the highest majority in Victorian history.

By asking the people of Victoria to assist in this democratic and long delayed change, the Government was able to introduce a bill entitled "The Constitution (Parliamentary Reform) Act 2003". The key changes enshrined in this act were:

- Fixed four year terms for both House of the Parliament
- A fixed day of the election to the last Saturday in November
- Proportional representation for the Legislative Council
- Removing the Legislative Council's power to block supply

The Bill was passed in the Legislative Council on Thursday, 27 March 2003 by 24 votes to 19 and the gallery erupted in a standing ovation. Labor members supporting the bill spoke of their pride in putting the community's interests ahead of their own, one member commenting;

It is a magnificent thing to be able to come in here and possibly vote myself out of a job⁵

The changes to the Parliament of Victoria brought about by the Constitution (Parliamentary Reform) Act 2003 will materially alter the operation of the Legislative Council and will significantly change its relationship with the Legislative Assembly.

The historic reforms will enable all Victorians to establish a growing confidence in the representation delivered by their local Members. Significantly, the reforms allow for minor parties to be represented in the Parliament (Legislative Council) for the first time. Parties such as the Greens, Democrats, and other environmental and interest parties, as well as Independents, will now have the opportunity to hold a seat in Parliament (Legislative Council) under the establishment of proportional representation.

These changes will strengthen parliamentary democracy by giving Victorians a say in their constitution as future major changes to the constitution will require a referendum in order to be approved. This safeguard will prevent any Government of the day with a holding majority, to reverse any or all of the delivered outcomes of Upper House reform.

⁵ Noel Pullen, Member for Higinbotham Province

Of course, Parliament is all about democratic and legislative change, but, following the 2002 election and the appointment of two new Presiding Officers – both of which are women (another history making first for Victoria!) – the Parliament's administration is embarking on a period of substantial change. This has involved the democratisation of the parliamentary process and the reassessment of numerous traditions of the Victorian Parliament and the inherited Westminster system – especially the wearing of wigs and outmoded forms of address such as “Madam Speaker” which have since been abolished.

The Parliamentary Precinct

Right of reply

Freedom of speech is one of the fundamental rights held by Members of Parliament. Members cannot be held legally responsible for anything that they say or write in the course of parliamentary proceedings and debates. This enables the Member to freely debate issues which they would not otherwise be able to discuss for fear of legal consequence.

During the course of such debates, Members may refer to individuals of the community. If in doing so, the person who is offended by this reference, may seek to have a response – right of reply – published in the parliamentary record (Hansard).

The process of having a right of reply granted is considered solely by the President of the Legislative Council in the Council. In the Legislative Assembly, it is initially considered by the Speaker, prior to referring the reply to the Privileges Committee for consideration.

The incorporation of the right of reply was first established in the Legislative Assembly of the Parliament of Victoria in September 1998 and in the Legislative Council in October 1998⁶.

Family friendly Parliaments

The rules of the House should aim to both reflect the way of life of the wider community and to accommodate the needs of its Members. Parliament is no longer the domain of landowning men over 21 years of age, and nor do we live in a society with the same family structure that existed 150 years ago. As such the needs of Members have altered significantly along with societal values.

A recent challenge to the relevance of Victoria's Parliamentary Standing Orders involved breastfeeding in the Chamber. The standing orders prevented

⁶ Legislative Assembly Fact Sheet 11 and Legislative Council Information Sheet 12

Members from breastfeeding in the chamber as this contravened the age-old 'stranger in the house' rule, developed as part of the Westminster parliamentary system. The subject in Victoria proved to be a contentious issue.

It was the view of most Parliamentarians that in order to create a family friendly work environment, there would need to be some change to the current situation.

As a consequence, the Speaker and the Party Leaders in the Assembly agreed to a Speaker's ruling which allowed greater flexibility.

It is essential that Parliament supports its Members and staff by offering a structure which supports a balance between work and family life, including appropriate facilities and working conditions.

Petitions

Petitions can act as a powerful agent for change in that they form a direct way for citizens or groups to place their concerns before Parliament and ask for action to be taken. The format, procedural rules and prescribed content of petitions was unnecessarily involved and may have acted as a deterrent for those wishing to raise awareness of issues.

Petition formats employed outdated terminology and language. The use of words such as "humble petitioners", "sheweth" and "in duty bound will ever pray" demonstrated words and attitudes which are no longer in common use.

A simply structured petition form was devised after consideration of other State and overseas Parliament's petitioning process, and has recently been instigated.

The Parliamentary Library and services to Members

Parliamentary processes and what Members of the Victorian Parliament "actually do" has been somewhat of a mystery to many in the community. Recent technological advances have improved the accessibility of Parliament to the people it represents.

The inclusion of Hansard on the internet by the Victorian Parliamentary Library was a national first which helped to demystify parliamentary organisation and operation. It allowed people, organisations and interested parties to track legislation via the internet. This enabled all Victorians from students to remote farming communities to be kept up to date with current legislation.

Parlynet 1998 provided laptops for all Members of Parliament allowing them to access their files or intranet in any location. The Parliament also introduced

laptops to assist with the processing of debated legislation, a far cry from the old quill pen and ledger.

Technological advances were utilised by the Parliamentary Library who adopted the slogan "Library on your desktop". The Library was able to offer searchable databases for legislation, house business and the media across the intranet system. These databases were previously available in hard copy form and were often not fully complete or current. "Library on your desktop" provides Members with current and accessible information at their fingertips and includes such databases as;

- Australian Bureau of Statistics which releases three bulletins every day ranging from the cost of rental accommodation in the Northern Territory to the yield of stone fruit in the Goulburn Valley, Victoria
- Fulltext 500 which offers 500 current Australian periodical titles covering topical subjects relating to discussion and policy issues

The parlynet system also offers an extensive online learning service in order to ensure Members and staff can confidently take advantage of the system. The online learning system reduces the need for outsourced training sessions which saves both time and money and offers improved accessibility for all, particularly Members in remote or rural areas.

Through the Parliamentary Library, a very successful Parliamentary Interns program was established in 1990 and has continued with enormous success. In conjunction with the University of Melbourne and Monash University, thirty final year students are placed with a Member of Parliament each sitting session, for a period of three months.

During their placement interns work on a research project of their hosting Member's choice. This placement is an excellent opportunity for the Member to have substantial research undertaken in a key area of responsibility. Each intern is expected to work one or two days per week and at the end of their placement, produce a report on the nominated topic.

Parliament and the Public

It is important for Parliament to be accessible to the community. The Parliament of Victoria believes that its operations should be transparent and approachable.

Educational programmes' such as Student's Parliament, Youth Parliament and the annual Constitutional Convention aim to increase young people's understanding of the government, legislation and the Parliamentary process.

The Parliament also arranges school tours and interactive displays at the Royal Melbourne Show and other venues. In addition, the annual Parliament

House Open Day allows the community to have a “hands on” experience of Victoria’s Government.

Often people can have a negative and uninformed perception of Parliament and its role. Our education programmes and attempts to make Parliament more accessible and straight forward aim to redress these perceptions.

Parliamentary Committees

Parliamentary Committees are an important mechanism for legislative change. Members of Parliament are appointed to Committees to conduct investigation into specific areas.

Parliamentary Committees which are comprised of all parties aim to provide relevant research and recommendations for the Government to propose legislative change and outcomes⁷. They retain a greater level of neutrality as they report to the Parliament and not the Government.

The Committee system is used as a mean of achieving greater public input into issues being considered by Parliament, by way of submissions or public hearings.

Notable Committee investigations that have reflected the community’s desire for change and later resulted in legislative change include;

- Road Safety Committee inquiry into the Revision of Speed Limits (1995)

Review of speed limits to 110km/h on the safest highest standard rural freeways, the elimination of 75km/h speed limits on urban traffic routes to 60, 70 and 80 km/h, and, allowing the Government to apply to VicRoads for 50km/h speed limits on residential streets

- Scrutiny of Acts Committee review of Anzac Day laws

Inquire, consider and review further ways to enhance the significance of Anzac Day as a national day of commemoration, including further Government funding and uniform trading hours restricting business

- Environment and Natural Resources Committee inquiry into Ballast Water and Hull Fouling in Victoria

Examining the problem of exotic organism transfer into Victorian Coastal water via ships ballast water and hulls.

Public Forums

⁷ Legislative Council Information Sheet 6

The Bracks Government considers that an essential element of effective democracy is encouraging communities to participate in decision making. In order to give communities a voice, the Government has used several initiatives, such as;

- Community Cabinet” meetings held in suburbs, regions and country towns across Victoria, allowing people to approach Ministers directly with their questions and concerns
- Strengthening consultative bodies in areas such as women’s affairs, aboriginal affairs and multiculturalism
- Increased resources for the Victorian Civil and Administrative Tribunal to ensure independent appeals are available to people affected by Government decisions
- Publishing details of Government contracts on the internet

In March 2000, a summit “Growing Victoria Together” was launched. This summit convened almost 100 key representatives from the business sector, the community and union organisations to discuss key issues facing Victoria. These fruitful discussions gave the people a voice to put forward ideas on how Victoria should operate in the future and enabled many parties to work together for the good of Victoria.

In May 2000, a Joint Sitting of both Houses was conducted to celebrate Aboriginal Reconciliation during Reconciliation Week. Aboriginal Elders and representatives were invited onto the floor of the Parliament to address Members of Parliament and the general public, to hear and learn about the long process of reconciliation. This Joint Sitting also recognised the achievement of the Council for Aboriginal Reconciliation in delivering *Corroboree 2000 – Towards Reconciliation*, which challenged the Australian Federal Government to take the next step towards reconciliation.

In March 2001, a similar Joint Sitting of both Houses of Parliament allowed for the delivery of a discussion on drug education and prevention strategies. The main speakers at this sitting were Dr David Pennington, chair of the Drug Policy Expert Committee and Mr Neil Comrie, former Chief Commissioner of Police. The sitting outlined the scope of the problem and considered legislative changes which could make a difference to Victoria’s drug problem.

Conclusion

Parliament as an institution can be a powerful catalyst for change. Change can stem from either internal legislative processes or external community needs and expectations. To be truly relevant and appropriate Parliament needs to consider both these elements when acting as an institution for change.

The inscription on the floor of the vestibule in Parliament house reads: "Where no counsel is, the people fall; but in the multitude of counsellors there is

safety". This reflects well what I believe to be true – the Parliament exists not in a vacuum but as a voice of the community and for the community. The more voices that can access Parliament and be heard – the more counsellors that offer the Parliament their views then the stronger and more robust is Parliament as an institution and as an agent of change.

With this mind we continue to try to make Parliament more accessible to Victorians – disabled access to our galleries, signers available for the hearing impaired, and the opportunity for people to address the Houses in languages other than English should they wish. All these initiatives aim to allow greater participation and representation in the parliamentary process.

The aim of the President and myself is to strengthen the parliamentary system as an institution by making it more representative, more accountable and more in touch with the needs of a modern community.