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Queensland's parliamentary committees: dead, on life support, or lively?¹

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This article reviews the effects of recent reform of the Queensland parliamentary committee system. In so doing it complements Suman Ojha's article which appears in this issue, in which that author examines the experience of earlier reform which re-invigorated the system.

The significance of the Parliament and its committee systems is brought home by the recent book *Why Nations Fail* (Acemoglu & Robinson, 2012). It presents a well-documented analysis of factors that have caused various societies to either fail to thrive or, in some cases collapse. Acemoglu and Robinson argue that inadequacies of societies' institutions have been a key factor in these failures. Clearly, the strength of Queensland's institutions is the context in which to think about the committee system. What is its contribution to better government, to ensuring that government contributes to the wellbeing of Queensland, or, for that matter, in the worst case scenario, actually derogates from the success of the state? That institutional structure has had major reform that came into substantial effect following the 2012 general elections. Coincidentally, the election resulted in a change of government; the Bligh ALP Government was defeated and the Newman LNP Government elected with a huge majority. The 2012 landslide election result in Queensland has some parallels with the election of Victoria's Kennett Coalition Government in 1992. Although Kennett's margin was less overwhelming and the parliament bi-cameral, nonetheless the Kennett Government had similar control and the Premier was no less dominant.

¹ This article is based on a paper presented at the ASPG Queensland Chapter forum: *Whether or Not Parliamentary Committees are Alive or Dead after the Landslide*, Brisbane, Saturday, 11 August 2012

A useful illustration of functioning of parliamentary committees in the period of the Kennett Government was the operation of the Victorian Scrutiny of Acts and Regulations Committee (SARC) (the author was a member 1992–96). It has since been re-established by the *Parliamentary Committees Act 2003* but its essential features remain similar (Parliament of Victoria, 2012). Features included: extensive powers to investigate & report on bills and subordinate legislation in respect of effects on human rights and consistency with regulation-making powers. Consequently it had potential to embarrass ministers and the Government, notwithstanding that a majority of SARC members were Government party members. It was an important committee and the way in which it operated is instructive. The chairman was a member of the senior Coalition party, Liberal Party MP Victor Perton. It was very significant is that he was — and is — a person of integrity and a skilled chairperson. He would not have been regarded as a supporter of Premier Kennett within the Liberal Party but the Premier nonetheless supported his nomination and election by the Committee as its chair. The way in which Perton handled the job demonstrated that he really understood how to lead a committee to produce the best results. Perton demonstrated a particular personal skill whereby he neither deferred to nor overtly challenged the Premier. He was also able to discuss things outside formal committee processes, through the informal channels of the Coalition Government in a way which facilitated the work of SARC and the fulfilment of its objectives.

Another important aspect of SARC was that it had an excellent Research Officer who did most of the background work on regulations and bills for the SARC members. Without such skilled support, the Committee could not have been as productive or as effective. From very early in the life of that Parliament, there were quite a number of government bills that were criticised in SARC reports for their infringements on human rights. One example from this period in which there were statutory marketing authorities for grains like barley, illustrates the point. In the Barley Marketing Bill 1993, barley inspectors were proposed to have powers to look for grains of barley that had somehow evaded the barley marketing authority. The inspectors' powers were greater than those the police then had to enter and search private homes (Victorian Parliamentary Debates, 2012). Regulations were criticised more for infringements on human rights than being beyond power. An example was new national parks regulations that restricted what people can do in national parks. The restrictions were that tight that no-one could have thrown a soft ball in a national park without being liable for prosecution for throwing a missile! (Victorian Parliamentary Debates (Victor Perton), 2012)

In the first several months following the Kennett Government's election there were many bills and regulations on which SARC made adverse reports. Importantly however, increasingly ministers and the government learned that SARC reports were to be treated with respect and the issues they were raising were legitimate issues which should have been addressed in the drafting of the bill or the regulations respectively. Government responded to these critical reports. New bills and regulations became sensitive to human rights and consistent with regulation-

making powers. SARC found little reason to make adverse comment. SARC was not without its weaknesses in that period. Timelines were at times very short, which was a product of the Government's legislative schedule and the limited number of sittings — the latter dictated by the Government as is customary. There were limited opportunities provided for public submissions and public hearings. No decentralised meetings were held; all were at Parliament House.

In Victoria, the functions and powers which in Queensland are the responsibility of the Committee of the Legislative Assembly (CLA) were then and now exercised by committees (e.g. House Committee; Privileges Committee) chaired by the Speaker and filled by backbench MPs rather than members of the Executive. That separation between parliamentary and executive functions enabled the Speaker (the author) to negotiate a separate Appropriation Bill for the Parliament since 1992. That was very important symbolically. It enabled the Victorian Parliament to demonstrate that there was greater separation between the executive and the parliament than had prevailed before.

The UK has a different mechanism which still further distances the Parliament's budget and hence the Parliament from Executive diktat. The House of Commons Commission (comprising MPs):

... is responsible for the administration and services of the House of Commons, including the maintenance of the Palace of Westminster and the rest of the Parliamentary Estate.

Once a year the Commission presents to the House for its approval the 'Estimate for House of Commons: Administration', covering spending on the administration and services of the House for the financial year (Parliament of the United Kingdom, 2012).

The effect is that the House of Commons determines its own budget, albeit with a weather eye to the Government's financial situation. Formally, that budget is incorporated in the Government's Appropriation Act e.g. see Parts 53 and 54 '... arising from Estimates laid before the House of Commons under section 3 of the House of Commons (Administration) Act 1978 ...' ('Appropriation (No. 3) Act 2010 Chapter 30', 2010).

What can we learn from such experiences?

The first thing to remember is that we are considering a system in which there are systems embedded within systems. The sovereign parliament of Queensland is embedded within the Australian political system. Within the sovereign parliament of Queensland there are committees that are subordinate to the Legislative Assembly.

Such a systems approach is very useful in thinking about how committees can operate and how they can be more beneficial to the State, in this case, as a whole.

Systems operate much more successfully where there is a high but not unlimited degree of interaction between the elements of the system — the ‘transition between order and chaos where excellent solutions are found rapidly’ (Kauffman, 1995, p.247). If a system provides very little opportunity for interaction — for example, almost no opportunity for public submissions and public comment — then the outcomes are expected to be less successful than where there is a reasonable amount of opportunity. Obviously, there cannot be an unlimited free-for-all resulting in ‘a chaotic regime where no solution is ever agreed on’ (Kauffman, 1995, p.247).

It is, of course, a democratic system — that is, one which is intended to achieve responsive rule — in other words, rule, decision making and administration that responds to the wishes of the people in the community (Saward, 1996).

The Queensland system is a parliamentary system. Democracy is achieved through a sovereign, elected Legislative Assembly, from which is drawn the Executive Government; that Executive Government is accountable to the Legislative Assembly. There is not a total separation of powers in a Westminster-derived system because, after all, the executive is drawn from the legislature, but it is important that there is opportunity for the executive to be held to account. Effective accountability, involving scrutiny of the Executive, paradoxically in the long-term self-interest of the Executive, requires a separation of powers. The Parliament has exclusive, sovereign authority to make law affecting the territory of Queensland its population. The committees are a sub-system embedded within and sub-ordinate to the Parliament. They are integral parts of a democratic system which is intended to achieve responsive rule, to generate policies and administration which reflect the aggregate wishes of the people. As indicated above, system outcomes (i.e. governance) are expected to be superior where there is a high level of constructive formal and informal interaction among individuals and organisations. More creative ideas are generated and incorporated into innovative solutions.

Research confirms that there are important factors that influence the achievement of responsive rule. First, Frey and Stutzer have demonstrated that people are more satisfied with their lives generally and with the way in which the state is operating, where they have opportunities to participate in decisions affecting their lives (Frey & Stutzer, 2000). They:

... studied the people living in a range of Swiss cantons with basically similar political structures but significant differences in the opportunities available to citizens to actually participate in policy decisions. Citizens of cantons with greater levels of democratic participation were more satisfied than their counterparts enjoying less participation. Non-citizens, who had no political rights to democratic participation were also studied. Swiss citizen residents were more satisfied than their non-Swiss neighbours who lacked rights. People with greater opportunities to participate in the political life of the cantons in which they lived had clearly higher levels of life satisfaction (Coghill & Thornton, 2008 p.6)

Secondly, in a related type of research finding, people are more likely to accept decisions where they have had the opportunity to influence those decisions even if the decisions are adverse to them or not the decisions they would have preferred. Arvai (2003) demonstrated that people:

... were more willing to accept decisions in which they had been involved even where the decision was not the one they preferred. This extends to people who had the opportunity to participate but chose not to. They had confidence in the process because they were able to relate to those who chose to participate. Their satisfaction with the process was more important than the actual outcome. He suggests that the benefits of participatory decision-making lie in the 'higher quality decisions that are the product of more widely accepted decision processes' (p.281) (Coghill & Thornton, 2008, pp.6-7).

The implications for the Parliament and its committees are that, where people affected by a policy or legislative initiative have had the opportunity and either taken it themselves or their peers — their fellow members of the society — have taken that opportunity, they are much more likely to accept the decision.

Parliamentary committees, established either by resolution or by Act, may facilitate such functions of the Parliament, or serve to hold the Executive to account, or both. However, the structure is a necessary but not sufficient condition for effective committees. The formal constitutional & statutory structures and powers are complemented by normative factors which determine how and to what extent the system achieves the ideal of responsive rule i.e. normative factors include the conventions, customs and practices of the Parliament and Executive. Relevant structural and normative factors include: structural separation from the Executive; committee terms of reference; committee powers to initiate 'own motion' inquiries, review all legislative proposals (except in exceptional circumstances), call for submissions, conduct public hearings, meet at decentralised locations, summons witnesses, and submit minority or dissenting reports. Sufficient time must be provided between referral and reporting date, and there must be adequate staff and other resources — itself related to the Parliament's independence from Executive control of its budget. Successful functioning of committees depends on its chairpersonship. Committee chairpersons are, obviously, party members, but the way in which they actually conduct themselves is important. Proceedings should be chaired in a nonpartisan manner. Cultural factors and practices; consensus-seeking but, where impossible, enabling dissenting reports; calling for submissions; conducting public hearings; decentralised meetings (when possible & appropriate); Ministerial responsiveness to recommendations; Executive Government taking advantage of and improving its performance by learning from parliamentary committee inquiries and reports.

How then would one assess the health of the Queensland Parliamentary Committee system, before or after the electoral landslide? The Inter-Parliamentary Union *Parliamentary Self-assessment Toolkit* provides a guide (Inter-Parliamentary Union,

2007). It indicates a number of broad questions by which parliaments can self-assess their performance, including:

- How far is parliament autonomous in practice from the executive, e.g. through control over its own budget, agenda, timetable, personnel, etc.?
- How effective are specialist committees in carrying out their oversight function?
- How effective are the committee procedures for scrutinising and amending draft legislation?
- How systematic and transparent are the procedures for consultation with relevant groups and interests in the course of legislation?
- How open and accessible are the proceedings of parliament and its committees to the media and the public?
- How user-friendly is the procedure for individuals and groups to make submissions to a parliamentary committee or commission of enquiry?

Ojha reports that, under the recently superseded system, most recommendations ‘were either completely or partially accepted by the executive’, but that government members dominated committees and there was a ‘reluctance to probe controversial issues which might have embarrassed the government’. That analysis suggests that there were elements of an unhealthy, counterproductive culture operating in that period and that rigorous self-assessment would have led to a mixed report.

Building on the IPU’s self-assessment questions, the following criteria are relevant to the Queensland committee system after the 2012 reforms. In each case, comments and assessments are based on perusal of a sample of reports presented to the Parliament by departmental committees and on remarks by speakers at the ASPG Queensland Chapter forum ‘*Whether or Not Parliamentary Committees are Alive or Dead after the Landslide*’ (Australasian Study of Parliament Group (Queensland Chapter), 2012; Queensland Parliament, 2012).

1. Are the committees structured to ensure that the parliament is autonomous in practice from the executive, e.g. through control over its own budget, agenda, timetable, personnel, etc.? The parliament is clearly not autonomous in practice from the executive and structure of the Committee of the Legislative Assembly is inconsistent.
2. What are the terms of reference of the committees which have been established; do the committees relate to areas of Executive Government responsibility and collectively cover all such areas (as is increasingly general world-wide)? The Parliament of Queensland (Reform and Modernisation) Amendment Act 2011 clearly provides that the committees do relate to areas of Executive Government responsibility. Queensland is a leader in this aspect of parliamentary practice in Australia.
3. Do the Committees:
 - a) Review all legislative proposals (except in exceptional circumstances)?

- b) Initiate 'own motion' inquiries?
- c) Rigorously examine policy implementation, administration, estimates and expenditure by executive government within their portfolio areas?
- d) Submit reports which question aspects of policy, legislative provisions or administration?
- e) Submit minority or dissenting reports?
- f) Have reasonable and adequate time available for investigation between referral and deadlines for reporting?
- g) Have adequate staff and other resources?
- h) Practice cultures of
 - non-partisan chairing?
 - consensus-seeking but, where impossible, enabling dissenting reports?
 - calling for submissions?
 - conducting public hearings?
 - summoning witnesses?
 - decentralised meetings (when possible & appropriate)?

There are encouraging indications that the committees generally perform satisfactorily on many of these measures, but it is not possible to provide a detailed review in this article. Furthermore, it is premature to comment on their oversight of departmental performance, expenditure and estimates at the time of writing (September 2012).

4. Are Ministers responsive to recommendations e.g. what evidence is there that ministers treat recommendations seriously, and amend and improve legislative proposals accordingly? Although there are encouraging indications, it is too early provide a confident assessment.
5. Does the committee system operate to make governance more responsive to the aggregate wishes of Queenslanders i.e. are people more or less satisfied with how their State is governed as a result of the operation of its parliamentary committees? This assessment requires at least a full parliamentary term of operation of the system before it can be clear that Queenslanders are satisfied with the effects of the reformed committee system.

As an incidental comment, the Parliament's website is of excellent quality in its appearance and useability.

Conclusion

Is the Queensland Parliamentary committee system dead, on life-support or lively? It is not dead; it is functioning without life support. However, there are some concerns about the liveliness and effectiveness of the committee system. Committees dealing with Parliament's administration must be distinguished from the departmental committees. One of the former, the **Committee of the Legislative Assembly** was strongly criticised at the time of its establishment and, despite some

changes, remains at odds with the IPU's question: How far is parliament autonomous in practice from the executive, e.g. through control over its own budget, agenda, timetable, personnel, etc.? This aspect of the Queensland committee system is far short of the standard set by the UK Parliament at Westminster and leaves the entire Parliament and hence the good governance of Queensland at risk. Concerns relating to the departmental committees include the time provided for reports on bills, the nature of public consultation and extent to which portfolio accounts and estimates are examined. Ultimately however, democratic principles dictate that it is Queenslanders who must judge the extent to which the Parliament and its committee system are meeting their wishes. ▲

References

- Acemoglu, D., & Robinson, J. (2012). *Why Nations Fail: The Origins of Power, Prosperity, and Poverty*: Crown Business.
- Arvai, J. L. (2003). Using Risk Communication to Disclose the Outcome of a Participatory Decision-Making Process: Effects on the Perceived Acceptability of Risk-Policy Decisions. *Risk Analysis* 23(2): 281–289
- Australasian Study of Parliament Group (Queensland Chapter) (2012). *Whether or Not Parliamentary Committees are Alive or Dead After the Landslide. Transcript of Proceedings (uncorrected)*. Unpublished transcript of uncorrected proceedings. Australasian Study Of Parliament Group (Queensland Chapter).
- Coghill, K., & Thornton, J. (2008). Climatecare: a future direction for partnerships for socio-ecological sustainability. How governance structures can be adapted to the imperatives of saving our environment. Unpublished Working Paper. Monash University.
- Frey, B. S., & Stutzer, A. (2000). Happiness, Economy and Institutions. *The Economic Journal*, 110 (October), 918–938.
- Inter-Parliamentary Union (2007). *Parliamentary Self-assessment Toolkit*. Inter-Parliamentary Union.
- Kauffman, S. (1995). *At Home in the Universe. The Search for Laws of Complexity*: Viking.
- Parliament of Queensland (2012). *Committees' Publications*. Retrieved 2 September, 2012, from <http://www.parliament.qld.gov.au/work-of-committees/publications>
- Parliament of the United Kingdom (2010) *Appropriation (No. 3) Act 2010 Chapter 30*. Retrieved 2 September, 2012, from http://www.legislation.gov.uk/ukpga/2010/30/pdfs/ukpga_20100030_en.pdf
- Parliament of the United Kingdom (2012). *Role of the Commission*. Retrieved 1 September 2012 from <http://www.parliament.uk/mps-lords-and-offices/offices/commons/house-of-commons-commission/workinfo/>
- Parliament of Victoria (2012). *Committees — Scrutiny of Acts and Regulations*. Retrieved 1 September 2012 from <http://www.parliament.vic.gov.au/sarc>
- Saward, M. (1996). Democracy and Competing Values. *Government and Opposition*, 31(4), 467–486
- Victorian Parliamentary Debates (2012). *BarleyMarketing Bill 1993*. (1993), 687–713. Retrieved 1 September 2012 from <http://tex.parliament.vic.gov.au/bin/texhtml?form=jVicHansard.adv>
- Victorian Parliamentary Debates (2012). (Victor Perton). *Parliamentary Committee System*. (1993), 1354. Retrieved 1 September 2012 from <http://tex.parliament.vic.gov.au/bin/texhtml?form=jVicHansard.adv>