



AUSTRALASIAN STUDY OF PARLIAMENT GROUP

NEWSLETTER – MARCH 2012

The Australasian Study of Parliament Group (ASPG) is a politically non-partisan body established to encourage and stimulate research, writing, teaching and discussion about parliamentary institutions, particularly those in Australasia and the South Pacific.

The ASPG has Chapters in all States and Territories of Australia and in New Zealand. Its membership consists of parliamentarians, parliamentary officers, academics, teachers, journalists, students and other interested individuals. For further information refer to the ASPG website www.aspg.org.au.

Welcome

Welcome to the latest issue of the ASPG Newsletter. This is a twice-yearly publication in which the Chapters are urged to tell all ASPG members of the activities of their Chapters and submit items of particular interest to current and prospective members. You can also make use of the Membership Application form at the back of the Newsletter which allows new members to join and existing members to renew their membership.

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Editorial

When we switch on the television and see pictures of the struggle for democracy in so many countries around the world we should give a passing thought to

how much we take democracy for granted in this country. We have a good standard of living for most of our population, we have freedoms of speech and association that must be the envy of most countries while violence associated with our system of governance unknown. As was highlighted by the recent celebration of the 70th anniversary of the bombing of Darwin we have been largely free of foreign incursion on our soil and 112 years ago we achieved Federation by sitting down and talking.

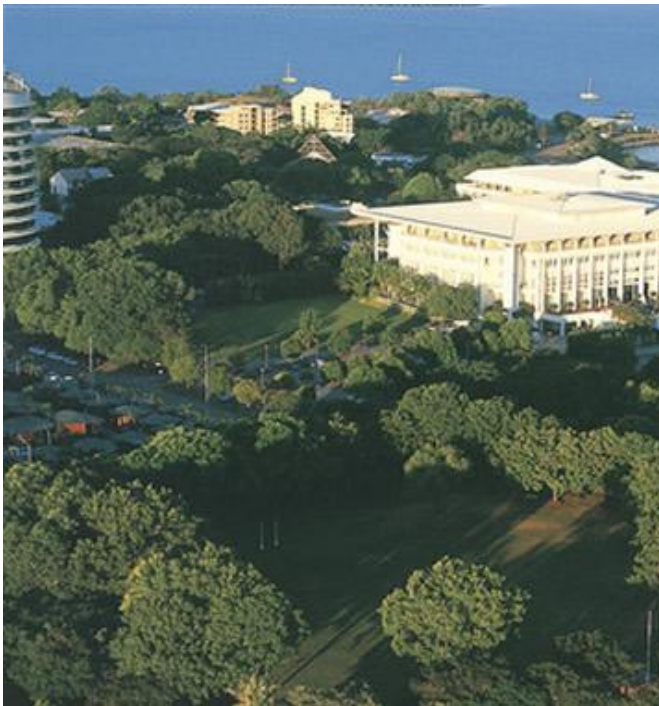
Something however seems to have been lost in our present public dialogue. Criticism of our parliamentary system is rife, Laurie Oakes recently said (Herald Sun, 18 Feb) ‘Increasingly, what happens in Federal Parliament is described as farcical. A farce, in the theatre, is a light dramatic work where highly improbable plot situations, exaggerated characters, the use of deliberate absurdity or nonsense and often slapstick elements are used for humorous effect. That describes proceedings in the House of Representatives to a T’, which is rather sad. Why is this so?

There are many theories and it is easy to bandy around criticism without suggesting solutions, or more importantly taking stock of what is wrong and rolling up our many sleeves for the hard work of winning back dignity, substance and integrity. Not that parliament in disrepute is particular to our times, there are many reports of undignified practice down through history, but today under the ruthless spotlight of public scrutiny that has never sharper, our parliamentarians need to better understand the gravamen of the situation, put aside the pettiness of the ‘24 hour headline’ and work in a collegiate way to address the deep issues confronting a society that is barely keeping up with the rate of change in the way we live.

The topic of this year’s Conference is ‘Constitutions - reviewed, revised and adapted’ which will give delegates a chance to examine the very heart of our democratic system, its strengths and its weaknesses, and from there, what we can do to recover lost ground and meet the modern challenge.

PARLIAMENTS OF THE ASPG REGION

Parliament Houses are amongst our most historic and important buildings in our community and yet they are so much taken for granted. This is the third in our series. In this edition we feature the Northern Territory Parliament. The material has been provided by Robyn Smith, Executive Officer, Office of the Clerk. Although the present building is newest of our parliamentary buildings its history is no less fascinating. We are sure it will be especially interesting to those of our members who will be visiting Darwin this year for our annual conference.



Early settlement

Parliament House Darwin lies on traditional Larrakia land. Until 1869, the Larrakia had lived a relatively undisturbed lifestyle, although there is evidence of trade between Northern Territory coastal dwellers and the Macassans as well as evidence of navigation exploration by others, most notably the Dutch (hence the name Groote Eylandt).

John McDouall Stuart successfully reached Australia's north coast in an epic crossing of the country on 24 July 1862. At that time, the Northern Territory was part of the colony of New South Wales. On 6 July 1863, South Australia assumed control of the Northern Territory after securing Letters Patent from the colony of New South Wales.

In 1869, the South Australian Surveyor-General George Goyder surveyed Port Darwin and established a camp in the saddle between Stokes Hill and Fort Hill. Thus the town of Palmerston was born. Goyder named Palmerston after Henry Temple, Lord Palmerston, a former British Prime Minister. The name didn't stick and the settlement was known as 'Port Darwin' and then simply as 'Darwin'. By about 1900, the name Palmerston had disappeared from common parlance. When the Commonwealth assumed control of the Northern Territory in 1911, the town's name was officially changed to Darwin.

The first major construction was completed in 1871 and was known as *The Residency*, which housed the South Australian Government Resident. Today, it is known as Government House or the House of Seven Gables and is adjacent to Parliament House.

Cyclones have battered Darwin on several occasions, in 1897, 1937 and Cyclone Tracy, Christmas 1974. It came under a different kind of siege in 1942 when the first wave of Japanese planes bombed Darwin and deep into the Territory. In all, 243 people were killed in the first two raids. In the months from February 1942 until November 1943, Darwin would endure 46 raids and the Top End 64 raids. The last raid occurred on the night of 11-12 November 1943. Among prominent buildings to be badly damaged was the Post Office. After these raids, the Post Office site was abandoned and telegraphic responsibilities were assumed by the Army from another site. The less damaged buildings of the Post Office complex were used by Naval personnel between 1942 and 1945 and the gutted remains of the original Post Office were used as a temporary repair shop for Northern Territory Administration vehicles.

A home for the legislature

The ruins of the Post Office buildings remained on the site until 1954 when they were cleared to construct a building to house the Legislative Council, which had not enjoyed permanent accommodation since its appointment in February 1948 and which, for a time, operated out of a Sidney Williams Hut on the Esplanade with Members given surplus school desks to use in the 'Chamber'.

An opening ceremony for that building was held on 25 March 1955 and was presided over by His Excellency the Governor-General, Sir William Slim, and the Minister for Territories, the Honourable Paul Hasluck.

Meetings of the Legislative Council were conducted in this building between 1955 and 1974 and the fully-

elected Legislative Assembly continued to occupy it from November 1974 until December 1989. The building was extensively damaged during Cyclone Tracy in December 1974. By the late 1970s, it was obvious that the building was inadequate for the efficient operation of the Legislative Assembly and, after an assessment of structural damage, the building was condemned.

Some are of the view that the impact of Cyclone Tracy was a catalyst for demands by Members for a new, purpose-built parliamentary building. After many impediments and delays, the decision to proceed with the construction of 'State Square' (a name which has never been gazetted), to comprise a new Parliament House and Supreme Court, was announced in 1988.

During construction of Parliament House, the Legislative Assembly had another makeshift home, this time in the Chan Building. Construction of Parliament House and the Supreme Court took about six years. Parliament House was officially opened by the Honourable Bill Hayden AC, Governor-General of Australia, on 18 August 1994.

During the construction and fit-out of Parliament House, the Speaker, Members and Clerks of the Legislative Assembly were conscious of the responsibility of commemorating those who were killed and of maintaining the site as a significant one in Northern Territory history. A remnant of an original porcellanite wall of the Post Office was relocated to the historic lobby, the entry to the Northern Territory Library, together with a piece of shrapnel that was recovered from the ruins. A commemorative plaque was embedded in the floor of the Main Hall. Ambitiously, it purports to be the exact location of where the bomb which destroyed the post office fell¹.

The architecture of the building also reflects post office history – each corner pillar is moulded at the top to resemble a falling bomb.

On 18 February 2000, the eve of the annual commemoration of the Bombing of Darwin, Mr Speaker McCarthy hosted a reception to unveil commemorative panels in the Main Hall. The panels honour the 10 people who were killed in the first raid. Surviving relatives of some of those victims travelled to Darwin for the event.

Current News

Report of the 2011 Conference – 'The Executive vs. Parliament – who wins?'

The annual conference of the Australasian Study of Parliament Group was hosted by the Victorian Chapter at Parliament House from 6 to 8 October, with the theme: *The Executive versus Parliament: Who wins?*

The Conference was possibly one of the largest in terms of numbers and was rated by all who attended as very successful, both interesting and enjoyable. It had been intended to hold the conference in the Legislative Assembly Chamber however because of the numbers it was moved out into Queens Hall, the area between the Vestibule, the Chambers and the Library. Completed in 1880 Queens Hall was originally called Grand Hall but in 1887 was renamed in honour of Queen Victoria.

Speakers at the conference represented a cross section of those who are elected to Parliament, work for Parliament or observe and comment on Parliament. There was an excellent range of papers of a high standard. Papers were presented by, amongst others, Mr Harry Jenkins, the (then) Speaker of the House of Representatives, a number of constitutional and political academics, the Victorian Auditor General, parliamentary staff and current and former Members of Parliament. An interesting exchange of views took place in the form of papers from the Speaker of the Queensland parliament, John Mikel, and The Hon. Judy Spence MP, Leader of the House, Queensland Parliament on the two sides of the controversy which flared up over the changes to the Speaker's role in the administration of the Parliament. Also of interest was the paper '[Prorogation and principle: The Gentrader Inquiry, Government accountability and the shutdown of Parliament](#)' presented by Teresa McMichael from the New South Wales Legislative Council. The paper discussed the clash between the Parliament and the Executive prior to the 2011 general Election. Other papers may be read on the ASPG website at www.aspg.org.au.

Other highlights of the Conference were the Annual Dinner held at the National Gallery of Victoria on Friday night and the post conference treat, lunch on Melbourne's Colonial Tramcar restaurant. For two hours the tram tours Melbourne streets while diners enjoy an excellent three course meal.

Meet a couple of our ASPG personalities

Noni Malone – Chair, Queensland Chapter



Nonie Malone is currently Chair of the Queensland Chapter and has served on the Queensland Chapter Executive in one capacity or another continuously since about 1998. Her interest in ASPG was piqued while studying Political Science at the University of Queensland, when *Legislative Studies* proved to be an invaluable source for an assignment on the possibilities for a committee system in the Queensland Parliament.

Nonie enjoys working with others to uphold the Charter of the ASPG – providing opportunities for discussion and debate (and the further dissemination of these beyond our membership) to foster understanding of the expectations and practicalities of our system of parliamentary democracy. She appreciates having the opportunity to learn from the interactions between practitioners and theorists at Chapter seminars, Australasian conferences, and through the wonderful materials published in *Australasian Parliamentary Review*.

Unlike most ASPG members, Nonie is not a parliamentarian, member of parliamentary staff, or member of the media, and until recently was not an academic, either (now a “pseudo-academic”, with the role of Affiliate Lecturer in the School of Political Science and International Relations at the University of Queensland and a consultant in public policy). For most of the years of her active membership of the ASPG, she has fitted into the “other interested persons” category in the ASPG Charter.

Nonie’s interest in matters of the Parliament was fostered by her curiosity in her teen years about her grandfather’s ever-growing library of State and Federal Hansard and the constant debating and

yarning between her grandfather and various visitors to his house. He was engaged in local politics, was the son of a judge, and the grandson of Sir James Dickson, a former Premier of Queensland. It seems politics and parliament are in the blood, and she did not want to be left out of this arcane world! What better way could there be to express and nourish this inclination than through the community of interest drawn together by ASPG!

Catherine Parkin – Secretary ASPG Central Executive



Catherine has been the secretary of the Australasian Study of Parliament Group since 2004, and a member of the Executive of the New Zealand chapter since 2002. She is currently Manager (Public Information and Chamber Operations) in the Office of the Clerk of the House of Representatives in New Zealand. In that role she leads the delivery of information to the public about parliamentary proceedings, including through the television and radio broadcasts of Parliament and the parliament website. She joined the Office of the Clerk in 2001, working in the select committee area for ten years in a number of roles including as clerk to the Health Committee and then the Justice and Electoral Committee.

More recently she managed a group of committee secretariats, and led a significant project to implement an electronic system for managing and distributing committee documents. She has been clerk of the Privileges Committee since 2008. Prior to joining the Office she worked in both the private and public sectors. She holds qualifications in journalism and public administration.

Victoria

First Function for 2012

On the evening of 13th March the Chapter held its first function for 2012 in the Legislative Council Committee Room before a large and appreciative audience. The subject matter was extremely topical providing a very timely analysis of some aspects of the bills being introduced to establish Victoria's first anti-corruption commission. One of the bills, titled, [Independent Broad-based Anti-corruption Commission Amendment \(Investigative Functions\) Bill 2011](#) was being debated in the Legislative Council that very evening. It has now passed both Houses. Chair of the Chapter, Legislative Council Clerk, Wayne Tunnecliffe, opened proceedings with a warm welcome to attendees and the proud announcement that Chapter membership had topped the 80 figure. Following on their highly successful conference last year the Chapter is certainly going through a stellar period. Also present was ASPG Chair and former New South Wales Speaker Kevin Rozzoli who was in Melbourne at the time for a workshop at Monash University led by Ken Coghill, also a former Victorian Speaker, and long time supporter of ASPG. Guest speakers were Perth barrister Gail Archer SC and Paul Pearce, former member of the Legislative Assembly in New South Wales.

Gail Archer joined the Western Australian Director of Public Prosecution's office in 1993, remaining there until January 2002. During that time, she conducted, as sole or lead counsel, well over 150 jury trials and represented the State in numerous Court of Criminal Appeal matters as sole or lead counsel. From January 2002 until 30 June 2004, she was Principal Counsel of Legal Aid WA, which included numerous jury trials, appeals in the Court of Criminal Appeal and the Full Court, and one High Court appeal. In 2007, she was appointed to conduct the statutory review of the Western Australian *Corruption and Crime Commission* Act and from April 2008 to February 2011 was an Acting Commissioner of the Corruption and Crime Commission when the Commissioner was on leave or had a conflict. In 2011, she was one of two silks in Australia chosen by the Australian Bar Association to teach at the Advanced International Advocacy Course held at Keble College Oxford.

Paul Pearce is currently running a planning consultancy while studying for a LLM in International Human Rights and Humanitarian Law at Aberystwyth University, Wales. Educated in Arts at Sydney University and Law at the University of London he has been a Council Member of the University of NSW from 2003 and is currently Pro-Chancellor at the University. He has had a long association with the Labor Party and public service as a Councillor and then Mayor of the Waverley Council in Sydney and a Member of the NSW Legislative Assembly from 2003 to 2011 during which time he was Vice Chairperson of the ICAC Committee; Chairperson of the Legislative Assembly; Privileges and Ethics Committee; Vice Chairperson of the Ombudsmen and Police Integrity Commission Committee; and Vice Chairperson of the Legislation review Committee.

Both speakers have considerable knowledge of anti-corruption commissions in their home States. Aspects of the bill considered by the two speakers included the balance between public and private hearings and the methodology applied to achieve that balance, the definition of corrupt behaviour and the degree to which aberrant behaviour may fall within the corruption definition, its particular consequences with reference to members of parliament, investigative practices of commissions when investigating complaints about members of parliament that could breach parliamentary privilege and how much members of parliament themselves have contributed to the problem by using references to anti-corruption commission on relatively minor offences as a tool for political point-scoring.

The speakers had a somewhat divergent opinion on a number of aspects which made for a lively evening with plenty of questions from the floor. Accountability, and with it variations on the theme of anti-corruption models, has become central to the political focus in recent years. The seminar was important for focusing our mind on some of the key issues that face parliaments, bureaucracies and the community in addressing this issue.

Western Australia- 2011 ASPG Dinner Seminar: 'Polls, Pundits and Parliamentarians'

The pervasive impact of public opinion polling on contemporary politics was the focus of the annual seminar conducted by the Western Australian ASPG Chapter on 8 September 2011 at Parliament House. Well known 'Westpoll' pollster, Keith Patterson, the Manager of Patterson Market Research and William Bowe, the author of the widely consulted electoral blog known as 'The Poll Bludger', addressed the seminar participants. This was followed by brief ten-minute presentations by three first-term parliamentarians: the Liberal Party MLA for Jandakot, Joe Francis; the Labor MLA for Cannington, Bill Johnston; and the Greens WA MLC for East Metropolitan, Alison Xamon. Later the various speakers answered a round of searching questions from the audience of parliamentarians, parliamentary officers, government officials, political and legal education teachers and the general public.

First keynote speaker, Keith Patterson, had over time developed a methodology which was based on a sample of 400 voting age people, with 300 from metropolitan Perth and 100 from regional Western Australia. The sample was stratified by age, gender and region with the profile for weighting being the 2006 census. Keith Patterson was able to demonstrate that 'Westpoll' predictions for recent state and federal elections and referendums 'were close to the money.' An emerging challenge for pollsters, who had relied on the *White Pages* for the sampling of electors, was recognition of a lowering of fixed telephone connections and rise of the use of mobile phones, particularly with younger voters. He thought that publication of poll results probably influenced election outcomes.

The second keynote speaker, William Bowe, did not speculate about the impact of polls on actual voting. His interesting address focussed on the predictions of the main polling agencies including *AC Nielson*, *Morgan* and *Newspoll*. The latter, with nationwide samples of about 1,200 persons, had recently been particularly strong with their performance. Newcomers *Galaxy* had been promising, with 'the jury still out' for *Essential Research* with on-line panel methodology. Bowe queried the reliability of bookmaker odds which tended to favour incumbent governments.

The first parliamentarian to respond to the keynote speakers was Bill Johnston, the Labor MLA for Cannington. He opened with a quote, read from his iPad, that the famous conservative thinker Edmund

Burke had written to the Electors of Bristol in 1774 to say in part: 'your representative owes you, not his interest only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion.' This was a reminder that despite the pervasive influence of contemporary political opinion polls, MPs have an overriding responsibility to their nation and state. As Johnston was the State Labor Party Secretary at the time of the 2005 State Election he was keenly aware of the use of polls by political parties. He indicated that party polling was usually more extensive and revealed more information than commercial polling. The outlay was second only to that allocated to television advertising. Moreover, polls could assist political parties to devote their resources to seats which the party had a better chance of winning. Sometimes political parties made decisions to release internal polling results if that was deemed electorally advantageous.

Joe Francis, the Jandakot Liberal MLA, recognised the history of polls and their contemporary significance. Polls, he thought, were to be used as a 'political tool'. Poll readings can contribute to a bandwagon effect but the political parties had to create the setting for these trends to develop. This had occurred in New South Wales prior to the 2011 State election and appeared to be taking place at the federal level in the same year with support for Tony Abbott's Coalition. Joe Francis made reference to the 2011 ABC Four Corners exposé of cattle export cruelty. In his judgement animal welfare issues, of intense interest to himself, are revealed in various mediums. Focus groups, although expensive, had also to be taken into account in conjunction with opinion polls and petitions and the range of new social media avenues. Importantly, though, while opinion polls had to be 'interpreted' they were an important facet of modern politics.

Greens MLC, Hon. Alison Xamon, contended that her party mostly took a different perspective on the polls (which it should be noted are invariably focussed on lower houses for party voting intentions). Polls, of course, are expensive and this fact militates against their use by the Greens. Alison Xamon thought that polls had a negative impact on other forms of political expression and cause parliamentarians to pander to popular opinions. While sometimes used to help resolve internal party policy conflicts, polls often stand in the way of good policy as the pertinent issues are not fully discussed. She expressed support for the arguments presented by Lindsay Tanner, a former federal Labor Cabinet Minister, in his book *Sideshow: Dumbing Down Democracy* (2011). Moreover, Alison

Xamon thought that the margin of error for many polls can be significant and on-line polls can be problematic.

In the discussion session President of the Legislative Council, the Hon. Barry House MLC, was emphatic about the representational role of upper house members. He made it clear that the personal votes that he had achieved 'below the line' in the most recent election had contributed to his re-election to the Legislative Council. In addition the President expressed concern about 'the self-fulfilling prophecies' of polling results. Policy question polls in his view 'create their own agenda'.

Legislative Assembly Clerk, Peter McHugh, queried whether, in this 'era of uncertainty' for traditional methods of sampling (particularly the decline in use of land-line telephones), polls remain reliable. The responses from the keynote speakers were open but they recognised the challenges ahead. Keith Paterson spoke of the compromise between commercial 'need and accuracy'. He spoke of the development of a hybrid sampling system, combining random dialling of respondents by phone, with a representative online database.

Former well-known ABC journalist, Peter Kennedy, asked the parliamentarians if there was still room in politics for 'seat of the pants' politicians who read their electorates without necessarily being guided by opinion polls. Joe Francis contended parliamentarians were not doing their job if they did not go out to talk to people. Bill Johnston also recognised the value of constituency parliamentarians. Another forum participant, David Worth, a senior Research Officer in the Legislative Assembly Committee Office, was keen to understand why Labor, with obvious reliance on opinion polls, was more likely to dismiss party leaders than their Liberal Party opponents. There was no convincing explanation but it was suggested that Labor may generally have more faith in the reliability of opinion poll findings, particularly the preferred Prime Minister or Premier statistics.

During the discussion Alun Thomas, a keen observer of contemporary politics and electoral systems, returned to concerns about the impact of polls on public policy, which was a theme Greens MLC, Alison Xamon, had articulated. Keith Patterson, in his response, said it was his agency's task to hold up a 'mirror' of the community. His agency did not seek to educate as this was the role of the political parties to formulate policies which the public wanted and understood.

All in all it was an enjoyable and informative evening, and plans are underway for the next seminar, which will be held later in 2012.

Dr Harry Phillips, Parliamentary Fellow, Honorary Professor Edith Cowan University, Adjunct Professor John Curtin Institute of Technology

Exploring the website – the ASPG in cyberspace

New additions to the website include papers from ASPG conferences, book reviews and High Distinction papers from the ANZACATT course

We want to make our website as interesting and informative as possible so please take a few minutes to look at it on www.aspg.org.au and email any suggestions to gavelr@bigpond.com.

Your contribution

The deadline for submissions for the next issue is 24th August 2012. Contributions and comments should be forwarded to the editor at gavelr@bigpond.com

We would like to introduce 'Letters to the Editor' in subsequent edition so if you wish to raise a matter or make a comment please forward your letter to the editor at gavelr@bigpond.com. Name and address must be provided although on request may be withheld. Letters should be no more than 300 words.

Help build our membership – sign up a new member. The greater the membership, the more we can do for you. If every member signed up one new colleague we would double our membership. Take the challenge!

Membership

The ASPG provides an outstanding opportunity to establish links with others in the parliamentary community. Membership includes:

- Subscription to the ASPG Journal *Australasian Parliamentary Review*;
- Concessional rates for the ASPG Conference; and
- Participation in local Chapter events.

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