



## 2015 Annual Australasian Study of Parliament Group Conference

30 September to 2 October 2015, Parliament Buildings, Wellington, New Zealand

| <b>Abstracts</b>  |
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| <b>Keynote panel: The Next Generation's Vision for a Modern Parliament</b><br><i>No abstracts available for this session</i>  |
| <b>Session: Representing Women in a Modern Parliament</b><br><i>No abstracts available for this session</i>   |
| <b>Workshop 1A: Representing Indigenous Peoples in a Modern Parliament</b><br><i>No abstracts available for this session</i>  |
| <b>Workshop 1B: Technology's Role in Modernising Parliament</b><br><i>No abstracts available for this session</i>   |
| <b>Workshop 2A: Representing Multiculturalism in a Modern Parliament</b><br><i>No abstracts available for this session</i>  |
| <b>Workshop 2B: Engaging the People with a Modern Parliament</b><br><b><i>Abstract – Engaging Parliament Through the Use of Internet Plebiscites</i></b><br><b>Presenter: Dr Norm Kelly, Associate, Australian National University</b><br><p>Declining participation in elections has brought into focus the relevance of Parliament in peoples' lives. Between elections, the work of Parliament is mostly seen through the lens of media coverage, in which a brief sound-bite from Question Time will often gain more attention than considered committee inquiries. The perception of the role of Parliament is thus formed in the public's mind. This paper considers indicative Internet-based plebiscites as a possible mechanism to invigorate the role of Parliament, particularly in the eyes of younger voters who are staying away from the ballot box. Members of Parliament can be better informed on current issues by using a higher standard of gauging public support (and interest) than is available through opinion polling. The potential advantages and disadvantages of Parliament using Internet-based polling as an adjunct to its debates and inquiries are explored. Such an innovation would complement the Government's move towards this form of voting, which is due to be trialled at the 2016 local government elections. The potential upsides could be significant – improved relevancy of a modern parliament, greater engagement with the demos, and better-informed parliamentary decision-making. But there are also the potential dangers to Internet plebiscites – voting security, lack of acceptance by MPs, low or uninformed turnout.</p> |
| <b>Modernising Parliament: An International Perspective</b><br><b><i>Abstract – A Canadian Perspective on the Modernisation of Parliament</i></b><br><b>Presenter: Dr Jonathon Malloy, Carleton University, Canada</b><br><p>Canada has seen considerable modernization of its parliamentary institutions, but modernization can mean little or nothing if there is not a clear sense of the underlying role and function of the institution. This appears to be a particular challenge for Canadian legislatures. Compared to its major Westminster model counterparts in the UK, Australia and New Zealand, Canada is generally agreed by scholars to have the most dominant prime ministers, and the weakest Parliament. There are several</p>   |



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possible reasons for this, including the longstanding practice of selecting party leaders through mass party votes rather than by the parliamentary caucus. We also have a deeply ambivalent institution in our unelected Senate, a body that may be in outright crisis following our forthcoming October 19 general election based on the election promises of two of the three parties. I argue that the underlying fundamental problem is that Canadian parliamentarians and the institution as a whole cannot agree on the actual role and function of Parliament. The consequence is either excessive faith in the power of technical reforms to solve inherent problems, and/or a tendency to create new reforms that often risk creating entirely new problems. In my recent work I identify two broad, competing and perennial expectations for the Canadian Parliament, which I call the logic of representation and the logic of governance. While both are rooted in the logic of the Westminster model, they pose paradoxical expectations that cannot be easily resolved, and some forms of modernization may even exacerbate this tension.

### **A Modern Parliament – The People’s House**

#### ***Abstract - Public Stakeholder Engagement in Policy Development***

**Presenter: Hon Ruth Forrest, Independent Member for Murchison, Legislative Council, Tasmania**

In modernising the Parliament there is an obligation to educate and inform the public on the role and mechanisms of Parliament in order for them to effectively re-engage in the accountability process, not through 24 hour media cycles but through deliberative, considered and thoroughly researched debate. It may not be a question of moving with the modernisation phenomenon; rather it may be more about re-engaging with new generations to promote an understanding of the importance of the scrutiny processes and enabling them to participate in the processes that are already available to them. An effort to modernise and enhance community and stakeholder engagement does not necessarily result in well considered and effective legislation. An example that demonstrates that public and stakeholder engagement can capture a process to such an extent that inadequate legislation can result is evident in the Tasmanian Forests Agreement Bill 2012 legislative process. Forestry in Tasmania has been an area of divided opinion and conflict for decades. Debate and differing views have divided communities and families in an industry that has often been used as a political football. This case study will show how increased stakeholder/public input into legislative drafting did not result in a well-considered, inclusive and effective piece of legislation and question whether increased public involvement, if only certain sectors of the public are given a voice, equates to a more accountable government. In this case a lack of scrutiny at the House of Assembly level highlighted the relevance and the importance of the bicameral system. A significant amount of time was given to the core stakeholder group that reached an agreement that resulted in the Tasmanian Forests Agreement Bill 2012. However the Government sought to restrict the time given for the “legislative and scrutiny process” within the Parliamentary environment. In an effort to address this, a Committee of the whole Legislative Council was established, the first of its kind, to facilitate independent scrutiny of the Bill, engaging sectors of the community that had been excluded during the development of the agreement and the Bill.

#### ***Abstract - The Nordic Example: Lessons in Citizen Engagement***

**Presenter: Hon Louise Upston (NZ), Member for Taupo and Minister for Land Information, Minister for Women, and Associate Minister of Local Government and for Tertiary Education, Skills and Employment**

An active, engaged citizenry is essential to a healthy democracy. New Zealand has a strong civil society, and it offers great potential for more robust, informed citizen participation in Parliamentary institutions and processes. Taking inspiration from the Nordic countries, this presentation explores how an inclusive, modern Parliament can best engage civil society in the decision-making process.



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The Nordic countries have a long tradition of transparency and citizen engagement and enjoy a high degree of public confidence and trust. Comparable to New Zealand in terms of population, land size and their relative isolation, as well as many shared values, the Nordic countries demonstrate, using a variety of mechanisms, how a wide cross section of society can be meaningfully included in the decision-making process.

### ***Abstract – The People’s House: Enhancing Parliaments’ Community and Civic Engagement in the Twenty-First Century – the Western Australian Experience***

**Presenter: Hon Barry House, President of the Legislative Council, Parliament of Western Australia**

Parliaments under the Westminster system are in consensus that the public has a right to be informed about the work of their Parliament and to actively participate in Parliamentary decision-making. They all grapple however, with how to increase public confidence in Parliament and its Members and improve democratic participation. Community engagement is an ambitious objective when faced with wavering popularity in the media, issues of political sensitivity, historical procedures and practices, and a level of community distrust, disinterest or lack of knowledge of the perceived impact of Parliament on their lives. The challenge is how to engage a broad cross-section of the public and interest groups and harness the energy of the media; the single most important source of information about the activities of members and the Houses. Also, how to ensure that strategies adopted are delivered in a coordinated and cohesive way and within the constraints of limited resources, balancing the working needs of members and staff and the heightening demands of security and heritage.

### **Parliamentary Committees – Vehicles to Modernise Parliament**

#### ***Abstract – Public Engagement by House of Commons Select Committees***

**Presenter: Professor Ian Marsh, University of Tasmania**

This paper surveys public engagement as it developed amongst the Committees of the House of Commons over the 2010-2015 Parliament. In an immediate sense this responded to a 2012 report by the governing Liaison Committee, which suggested that much greater attention needed to be paid to this activity. More deeply, this turn responded to fundamental structural and systemic developments affecting citizen identities and systemic policy making capacity. As in many other countries, public disaffection and disengagement has grown to disturbing levels. The paper notes the special advantages that committees bring to this task. It then reviews the variety of innovative approaches that were adopted, involving both convention forms of outreach and social media. It also discusses some of the broader organisational and procedural features that were adopted by the most imaginative committees. Whilst much has been accomplished much remains possible. The paper concludes with a summary of the report’s key recommendations.

#### ***Abstract – How Well Do Parliamentary Committees Connect With the Public***

**Presenter: Dr Martin Drum, Senior Lecturer in Politics and International Relations, University of Notre Dame Australia, Fremantle, Western Australia**

Most political scientists regard parliamentary committees as one of the most successful aspects of parliamentary business, where MPs of all persuasions come together to analyse and investigate issues of public policy and governance. Whilst their recommendations are not always implemented, they do play a major role in informing parliamentary debates. Amongst the public however, the work of parliamentary committees remains unrecognised and underappreciated. Utilising a pilot study of Western Australian parliamentary committees, this paper looks at how these committees go about seeking public input into their inquiries, and whether they plan to broaden their methods of



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communicating with the public in the future. This analysis is placed in the context of evidence at the Commonwealth level in Australia, along with ideas from other jurisdictions internationally.

### ***Abstract – Enhancing the Role of Select Committees and Other Means to Making Parliament Relevant to the Next Generation***

**Presenter: Hon Trevor Mallard, MP, New Zealand**

Statute law in New Zealand is a mess. Notwithstanding years of problem definition and suggestions by Sir Kenneth Keith, Sir Peter Blanchard, Prof John Burrows and especially Sir Geoffrey Palmer development remains ad hoc. Legislation is too often seen as a political or policy device resulting in unnecessary law while at the same time basic housekeeping processes - modernising, simplifying, codifying and repealing are left undone. Too often legislative priority is given to a noisy Minister seeking to assert their status or one who is the tool of a catastrophising department. The paper proposes a rolling three year government legislative programme, published annually not later than the end of March to which the Law Commission will be required to have regard. The Commission will include bills with each of its reports and these bills will be subject to first reading debates and votes during an "extended" sitting of the house not less than three nor more than six months after tabling. Second readings and subsequent stages will also receive relatively smooth passage through extended sittings with intervals of no more than three months. They will therefore neither interfere with time currently allocated to the government nor sit for years waiting for priority. For all other bills, other than the exemptions which follow there will be a white paper process. Exemptions will be - minor bills, budget bills where the Speaker will have to rule that there is real and significant risk to the revenue and urgent bills which will require a 75% majority in the House at each stage. The white paper (including problem definition, policy options, preferred approach and a draft bill) will be laid on the table of the House and available for submissions to the Minister responsible for at least three months. There should be a standard 40 working day period for the receipt of submissions to committees. Any shortening of the six month report back period from committees should subject to a debate in the House. The Chairs and Deputy Chairs of Committees should be allocated in rough proportion to the non-executive membership of the house and the Chair of the Finance and Expenditure Committee should be an opposition member. Other changes suggested include using online, lightly audited petitions to set topics for quarterly debates which would be held in the General Debate time slot and making two thirds of what are currently General Debates genuine Backbench debates from which Ministers, Party Leaders and Whips are excluded.

### **Proceedings of Parliament: Modernising How Parliament Operates**

#### ***Abstract – Guiding Principles for Modernising Parliament***

**Presenter: Dr Kennedy Graham (NZ), Member of Parliament**

Modernising Parliament is an imperative for the present generation, not a prescriptive rethinking for the next. The challenge for any parliament is to optimise tradition and change – tradition, to preserve the timeless values that underpin human society; change, to retain an evolving legitimacy at pace with society's natural dynamic. Modernising Parliament might observe the following guiding principles:

1. A Second Principle of Comity: The balance of initiative and power is, in general, tilted towards the Executive in New Zealand, minimising the role of the Legislature. The conjunction of the two branches makes for potential confusion of role and imbalanced competencies, in both domestic and international issues. This needs fundamental redress.
2. Appropriate Status for World Affairs: In international issues particularly – foreign affairs, defence and trade – the Legislature has no role ex ante, even in an advisory capacity. In this respect,



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in light of reforms in the UK in recent years, New Zealand is now alone. Parliament rarely discusses world events, and consequently NZ foreign policy is handed down from the Executive as a given. There needs to be a structured regularity of debate on world affairs.

3. **Consensus-building:** The NZ parliament tradition mistakes adversarial combat of policy for competitive exchange of ideas. The debating chamber should be just that, a debating chamber; not a gladiatorial arena. Both the physical structure of the chamber and the context of the Standing Orders rest on a belief that the democratic health of our nation turns on partisan exchanges. Most national legislatures are physically structured in semi-circular fashion, not along the lines of WWI trenches. Some carpentry would assist the democratic process, and the public's perception of parliamentary conduct.

4. **Primary Role:** The NZ Parliament essentially operates as a legislative cog-machine. It churns out legislation based on a pre-ordained three-year majority. The limited opportunity for general debate descends, through the adversarial structures, into trivial point-scoring; rare is there any informed exchange of policy prescription or its philosophical underpinning. The old upper house, the Legislative Council Chamber, lies empty, six decades on. Scope must exist for use of this chamber, for more informed thematic debate, involving civil society, business and academia and, separately, cross-party debate.

### ***Abstract – Out of Step? The NSW Parliamentary Evidence Act 1901***

**Presenters: Beverly Duffy, Clerk Assistant Committees and Sharon Ohnesorge, Principal Council Officer, both from New South Wales Legislative Council**

A recent and highly controversial inquiry in the New South Wales Legislative Council, 'Operation Prospect', highlighted two important aspects of the inquiry power of Legislative Council committees. The first concerns the common law privilege against self-incrimination. While legal advice to the committee suggested that witnesses could be compelled to answer incriminating questions, this paper explores whether this is appropriate, given the profound consequences for witnesses and modern notions of due process. The second issue relates to committees' penal jurisdiction. In New South Wales a committee may imprison a recalcitrant or wilfully misleading witness. This paper examines whether a modern legislature should be able to deprive a person of his or her liberty, and under what circumstances. Parliamentary committees undoubtedly require strong coercive powers to ensure they are able to fulfil their oversight role, but as this paper argues, reform is required to ensure committees in New South Wales exercise these powers in a manner consistent with contemporary views of the role of Parliament. Such reform may be achieved as part of a larger project to codify the Parliament's privileges and by introducing Senate-style procedural resolutions for the protection of witnesses.

### ***Abstract – Reviewing the Standing Orders – How to Make Dreams Come True***

**Presenter: David Bagnall, Senior Parliamentary Officer (Clerk of the Standing Orders Committee), New Zealand**

How do we turn ideas for modernising and improving Parliament into reality? This presentation looks at how the House actually adopts and adapts its procedures. The Standing Orders are the House's rules, and they seem filled with detail and prescription. They also can be viewed as an evolving accord representing the accepted balance of the different parliamentary interests. These are not just the interests of political parties, but also of the institution of Parliament and the public that it serves. A review of the Standing Orders, procedures and practices of New Zealand's House of Representatives takes place during each term of Parliament. In light of the constitutional nature of these rules and practices, the Standing Orders Committee has a convention of requiring consensus or overwhelming support if proposed amendments are to be effected. While this convention might seem to embed



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current procedures and reduce the prospect of significant change, actual experience has been different. The presentation surveys instances when significant parliamentary reforms were implemented in this country, and assesses the extent to which there was cross-party support for these reforms. The presentation includes a description of the review process and attempts to discern factors that influence the outcome. Like many aspects of parliamentary procedure, the success of the process hinges on the engagement of the participants. This applies especially in relation to members, but does not end there. Everyone with an interest in or enthusiasm for Parliament should ask, what does it mean for Parliament to be effective? How can its effectiveness be enhanced? What possibilities are there for Parliament in the future, and how do we get there? The overall purpose of the presentation is to encourage attendees to bring their evidence, ideas and dreams for Parliament to the table when the next review of Standing Orders commences.

### **Ethics, Transparency and Professional Development – Keys to a Modern Parliament**

#### ***Abstract – Making Parliamentary Ethics Relevant for the Next Generation***

**Presenters: Hon Dr Ken Coghill, Associate Professor and Julia Thornton, both from Monash University, Victoria, Australia**

If confidence in political processes and faith in democracy is to be sustained into the future, an increasing part of the modernisation of parliaments will include proactive programs for pre-empting ethical conflicts. Codes of conduct, ethics advice, education and training programs aimed at alerting parliamentarians to potential ethical dilemmas and conflicts of interest are frequently situated in a wider context of National Integrity Schemes. Our question is what factors and organisational structures capture the attention of parliamentarians and enhance ethical conduct? Aspects of pre-emptive ethical best practice have been incorporated into the recent Benchmarks for Codes of Conduct applying to Members of Parliament, published in April 2015 by the Commonwealth Parliament Association. We discuss the various approaches to ethical conduct in different legislatures and highlight the features of better practice that make them effective. We also explore the relationship between the public trust principle, parliamentarians' codes of conduct and ethics advice.

#### ***Abstract – Rethinking the future of Parliament - Openness and Transparency in Government***

**Presenter: Janine McGruddy, Director, Transparency International New Zealand**

The aim of this paper is to show how rethinking the future of Parliament can only be enhanced by building a sense of expectation and commitment in favour of honesty, transparency, respect, and accountability in government. New Zealand's reputation for high standards of impartial and transparent government has relied on many factors. In order to meet the needs of future citizens integrity and good governance are essential as they underpin government legitimacy and the freedoms, civil liberties and ability to participate in a democratic state. This includes building resilient integrity systems, reviewing best practice around public funding and greater transparency around the finances of their political parties, respecting the role of the Public Sector to provide free and frank advice, and committing ambitiously to the Open Government Partnership, joining the Global Organisation of Politicians against Corruption (GOPAC), and actively engaging with the United Nations Convention against Corruption (UNCAC). By working on these issues a future New Zealand Parliament would be seeking to actively lead on best practice to ensure that our reputation as an open, transparent public sector with low levels of corruption is sustainable and deserved. This paper is a blueprint for future parliamentarians that want to show leadership on these urgent issues. The aim of this paper is to show how rethinking the future of Parliament can only be enhanced by building a sense of expectation and commitment in favour of honesty, transparency, respect, and accountability in government. New Zealand's reputation for high standards of impartial and transparent government has relied on many factors. In order to meet the needs of future citizens integrity and





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### ***Abstract – Professional Development of Members***

**Presenter: Adjunct Professor Colleen Lewis, National Centre for Australian Studies, Monash University**

Members of parliament have a highly important and influential job, as their determinations profoundly affect the lives of the population they are elected to serve. Despite having to make decisions on extremely complex issues, parliamentarians, unlike other professions are not required to attend professional development programs, nor do they undergo any form of testing to ensure that they understand even the basic elements of their job. This chapter asks: is this a satisfactory situation in today's knowledge-based society or should it be compulsory for parliamentarians (as opposed to candidates) to engage in professional development programs throughout their time in office?