

ADDRESS

The Greens as a New Party in the Victorian Parliament

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Thank you for inviting me to speak today about the experiences of the Greens as a new party in the Victorian Parliament.

I will start with a brief history of the Greens and how we got to be here, what we have found since we arrived and how we would like to see the upper house further transformed.

Where We Came From

The campaign to save Lake Pedder in 1972 led to the formation of the United Tasmania Group. This was the first 'green party' in the world. Bob Brown and Gerry Bates were elected to the Parliament of Tasmania in 1986. In 1984, Jo Vallentine was elected as Senator for Western Australia as a member of the Nuclear Disarmament Party, before forming her own group, which merged with others to form the Western Australia Greens in 1990.

The Wesley Vale Pulp Mill campaign saw three more Greens, including Christine Milne, elected to the Tasmanian Parliament in 1989. They formed the Green Independents and the Australian Labor Party (ALP) governed with their support as a minority Government until 1992.

Bob Brown was elected to the Senate in 1996. In his inaugural speech he said 'if we do not rein in the greenhouse gas phenomenon ... if we do not bring our warming gases under control ... life for many species, perhaps including our own, is likely to be unsustainable, that we are on a collision course with the planetary environment itself.'

Legend has it that the assembled MPs laughed at that idea, but nobody is laughing now. In the meantime, more than a decade of potential action to reduce climate change has been lost.

At the 2007 federal election, more than a million Australians voted for the Australian Greens. The Greens now have five senators and nineteen state MPs.

* MLC, Victorian Parliament, Address to ASPG 11 March 2009.

Greens in the Victorian Parliament

At the November 2006 state election, Greg Barber, Colleen Hartland and I became the first Australian Greens to be elected to the Victorian parliament. The Greens vote in the upper house averaged 10.58 per cent and just over 10 per cent in the lower house. I mention this because it is a fantastic achievement by the Greens in less than fifteen years and is largely due to the tireless efforts of hundreds of volunteers working, relative to the campaign chests of the ALP and Liberal Party campaigns, on the smell of an oily rag.

How Did We Get Here?

At the 1999 state election, just ten years and three elections ago, when the Victorian Greens were only seven years old, we stood candidates in 22 lower house districts and 4 upper house provinces. The Greens vote averaged 2.23 per cent in the upper house.

In 2002, we took a quantum leap for a small party and stood candidates in every lower house district, except the four that were newly created at that election, and in every upper house province. In three years, the Greens vote had increased to 10.87 per cent in the upper house and 9.73 per cent state-wide in the lower house. In 2006, Greg and I were both elected fourth of the five members in our regions. The Greens vote in the Northern Metropolitan Region was just under 16.5 per cent and in Southern Metropolitan it was 15.34 per cent. Colleen was elected by 127 votes after a recount in the Western Metropolitan Region.

So that is the bit of a potted history of the Australian Greens and how we campaigned to elect members of parliament in Victoria.

Proportional Representation (PR)

It is true to say that without the introduction of proportional representation to elect members to the Legislative Council in 2006, there would most likely be no Greens in the Victorian Parliament. It is also true to say that, given the high quota needed to be elected under the system that was chosen, we would not be in parliament without the significant level of support the Greens had gained in the community (the support of at least one in ten voters is a significant proportion of the population by any measure), and our own efforts and achievements in previous election campaigns.

It could be that more than one in ten voters support us, because we know that a considerable proportion of voters put us second on their ballot paper, often second to a major party, because they do not fully understand preferential voting. The fact that so many Australians do not fully understand preferential voting and other aspects of our electoral system is a real concern. It contributes to public cynicism in the electoral and parliamentary process. It is basic knowledge that everyone should have in order to fully express their wishes at the ballot box. It should be second nature to us all.

Bob Brown said in his inaugural speech that he would, on behalf of the Australian Greens, push for proportional representation in the House of Representatives. Most European parliaments have it. Tasmania and the ACT have it. So does New Zealand. He offered to export the Hare-Clarke system across Bass Strait — as a gift to the people of Australia to give them better representation.

PR, he said, simply means this:

on the day after an election, everybody wakes up to find that somebody she or he voted for is in the parliament to represent them. Compare that, he said, with the stultified, single-member, Westminster option that we have in place here in Australia: on the morning after the election, half the electorate wakes up to find that their vote was in vain, that somebody they not only did not support but also resent is the only person from their electorate in the parliament to represent them
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Reform of the Victorian Legislative Council

In his response to the Constitution Commission Report in July 2002, then Premier Steve Bracks said that the Legislative Council had been found wanting in all key areas. He said it was ‘undemocratic, ... obstructionist and ineffective as a house of review’. He said the upper house needed ‘... a new membership, a new role and a new culture’.

It is to its credit that the ALP government undertook to reform the upper house. I believe it was done in good faith and with a genuine understanding that the upper house could no longer be allowed to continue in the ineffective way it had for 150 years. The Premier observed, correctly, that it needed to be dragged out of the 19th century and into the 21st.

However, I also believe that there was very probably a keen understanding that without those reforms, the Legislative Council would eventually have reverted to the control of the opposition parties as it had been for virtually all of its existence. The former electoral boundaries basically guaranteed this.

How Democratic is the Victorian Upper House Now?

If the aim of the reform of the Legislative Council was to make it more democratic, it is worth having a look at how representative of the vote expressed by the people its make-up actually is.

At the 2006 state election the ALP achieved 41.45 per cent of the primary vote which translates to 16.58 or 17 members — they have 19. The Liberals achieved 34.55 per cent which translates to 13.82 or 14 members — they have 15. The Nationals achieved 4.43 per cent, which translates to 1.77 members — they have 2. The DLP achieved 1.97 per cent which entitled it to less than a member — it has one.

All the above have been rounded up, if you will, to the nearest whole number. The Greens are the only party to be rounded down. The Greens achieved 10.58 per cent of the vote which translates to 4.23 members — we have 3, but should have four MLCs. One could say that the upper house is *generally* reflective of the voters' intentions — certainly much more than it was before the reform, although the ALP and Liberal party have more members than the proportion of the state-wide vote they achieved and the Greens very clearly have one member less than their proportion of the state-wide vote would indicate.

So, it is not as representative as it could be. However, the system was not selected by the government to achieve the closest possible proportional outcome. Other factors were at play. Of the four models it put forward, the Constitution Commission 'on balance ... favoured the six regions by seven members model, which would have meant a lower quota of 12.5 per cent and a more diverse membership of the upper house'.

Interestingly, the Commission also reported that the model most favoured by its survey respondents was the 7x7 model — the one with the most MLCs (an increase from 44 to 49 members) — so the public did not seem to be as hung up on increasing the number of politicians as it is often claimed that they are.

Despite the recommendation of the Commission and the people's choice both favouring 7 member regions, the government opted for the eight by five member model, requiring candidates to achieve a relatively higher quota to be elected — a disadvantage to minor parties — even those with significant community support, and an advantage to the major parties — the incumbents.

It is also the model with the least overall members — reducing the number of MLCs from 44 to 40. The Commission observed that a model with slightly more than the original 44 members would arguably be better for a functioning committee system.

The Constitution Commission noted that 'it is common for governments to be elected in lower houses with less than a majority of primary votes overall - as was the case with the ALP in 2006. The ALP achieved 43.06 per cent of the primary vote which translates to 37.89 or 38 members — they have 55 — 17 too many. The Liberal party achieved 34.44 per cent which translates to 30.30 members — they have 23. The Nationals achieved 5.17 per cent which translates to 4.5 members — they have 9 — twice as many as they should have. The Greens achieved 10.04 per cent of the primary vote in the lower house — one in ten voters, which should have entitled us to 8.83 or close to 9 members but we have none! And there is one independent. In such circumstances, the Commission noted, it is even more important that governments be under scrutiny in upper houses where a broader spread of opinion is achieved by a proportional representation voting system. How different the lower house would look with PR. The major parties would not necessarily like it, but it would be more representative of the wishes of the voters.

It is claimed that the single member electorate system has served Australia well — certainly it has served the major parties well and I would say that it has been a significant factor in entrenching the two party system in Australia.

The days of the single member electorate must be numbered. It is not democratic and it is not representative. Our community is educated, aware and concerned about issues yet it is increasingly cynical about politics, politicians, elections and the adversarial ‘both sides of politics’ debate — as if there are only two sides to every story — clearly not the case. This is not a good situation. People want to be represented by the person or party they voted for and with single member electorates, too many clearly are not.

As Bob Brown said, ‘on the morning after the election, half the electorate wakes up to find that their vote was in vain’. We know that around a quarter of people do not vote for a ‘major’ party as their first preference. Since I was elected to parliament, many people have said to me that it was the first time that someone they had voted for had actually been elected.’

What Have We Found Since Being Elected?

It is difficult for the Greens to compare the upper house now with the way it operated before we were there, however, I can say that other MPs, observers and parliamentary staff have often told us that debates on bills and motions are much, more lively and the outcome is no longer a forgone conclusion. Obviously, some bills have been amended and a couple have been defeated in the upper house. This did not happen before.

These are positive developments that one would expect to see in a functioning upper house — and in a lower house I might add, which PR in the lower house would achieve. However, it is also often qualified with, ‘but it could still be better’ and I fully agree with that. There is still quite a way to go in terms of improving the structures, processes and procedures of the Victorian Legislative Council.

In the 2006 election campaign, the Greens produced a document entitled *Making Parliament Work — Ideas from the Greens*. In that document, among other things, we pledged to shift the balance of power away from Executive Government and back towards the Parliament and the people. This is a document that we remain committed to. We want to improve public confidence in Parliament and in the processes of government.

At the start of the 56th parliament, the non-government parties moved a series of amendments to the sessional orders of the upper house to provide, for example, more time on Wednesdays for non-government business, changing question time from 2pm to 12 noon to allow members of the public and the media to attend question time in both houses and the removal of the arcane speaking time allocations which gave government speakers up to an hour to speak on a bill or motion, followed by 45 minutes for the opposition, 15 minutes for the ‘third’ party

and so on. This was definitely a relic of a bygone age. I have been told that in the past most members spoke for their full hour or 45 minutes whatever the subject of the bill or motion.

There have, from time to time, been comments querying the wisdom of the removal of speaking times from all but member's statements and adjournment matters, but I think that most people would agree it has worked well. Members can now choose to make brief or longer contributions according to the substance of the bill or motion before them and the interest of the member. It allows for greater participation in debates by *all* members, not just from new parties.

The government opposed all of these positive changes. They are clearly designed to provide for more scrutiny of government — a key outcome if not a stated goal of a reformed upper house, and as such I feel that they should have been supported by the government in the spirit of building a better upper house in Victoria.

I proposed changes to question time so that ministers could be asked questions about portfolio areas where they represent a minister in the lower house, as is the case in the Senate. To have left it the way it was would have disadvantaged parties such as the Greens and DLP who do not, as yet, have members in the lower house and so would be unable to put questions without notice directly to those ministers.

There is still much to be done to improve things. Take question time. Everyone knows that it is viewed with amusement or disdain by the public — neither is desirable. Admittedly only federal question time is televised, but exposure to that spectacle gives the public a distorted view of the day to day operation of parliaments, which are generally more co-operative and certainly a lot quieter. 'Dorothy Dixers', for example, are rarely a genuine question — government members read 'questions' from pieces of paper supplied to them that are really just an opportunity for the minister to use his or her 'answer' to make a ministerial statement. They are deservedly a source of derision from the public and the media and contribute to the general cynicism about parliamentary processes.

The way question time is conducted at present is not the only way it could be conducted. Other parliaments use a variety of rules and procedures. I was impressed by an address given at an Australasian Study of Parliament Group (APSG) meeting last year by the former deputy speaker, Mr Peter Loney, about how to improve question time and I intend to explore with them a view to improving question time in the upper house.

How Does a 'Minor Party' Use Parliamentary Procedures

Colleen, Greg and I have tried to make the most of the existing processes and procedures available to us to raise issues of concern and to promote and implement Greens policy. It has been a steep learning curve as there were no existing Greens MPs to help us find our way.

However, we have been appreciative of the assistance we have received from the clerks and other parliamentary staff and MPs from the other parties who have been very helpful in steering us through the procedures. That is where the cooperative spirit is evident.

We have proposed six private members bills and have more in the pipeline. We have moved four disallowance motions — one on the exemptions of certain organisations from native vegetation rules, one to disallow the code of practice for the welfare of pigs and two on planning scheme amendments, including the successful revocation of the Amendment C118 to the Greater Geelong Planning Scheme moved by my colleague Colleen Hartland. The Minister later used Section 16 of the Planning and Environment Act to overturn that decision, so the tussle between the powers of the parliament (in particular, the upper house) and the Executive continues as well as the interaction between the statutes and the parliament.

We have also referred issues of public importance, such as electoral donations to parliamentary committees, which brings me to a discussion of Committees.

An Upper House Committee System

The Constitutional Commission recommended that the work of the committees in the Victorian upper house be enhanced. Certainly Victoria is some way behind the Senate and comparable upper houses in Australia in terms of standing committees.

The issue of upper house committees has been a matter of much activity and debate since the start of the 56th parliament. So far, three upper house select committees have been established. Two have run their course and the Select Committee on Train Services, established by a motion of my colleague, Greg Barber is underway.

One standing committee — the Standing Committee on Finance and Public Administration (SCFPA), which is based on the Senate Committee of the same name, has been established. It has completed one Inquiry — into the economic case for channel deepening, on a motion put by me on behalf of the Greens.

The SCFPA has before it two more specific inquiries - into the business case for water infrastructure and into hospital performance data, and a wider ranging and ongoing inquiry into departmental and agency performance and operation.

It is the Greens view and my particular passion that a functioning committee system be established in the Victorian Legislative Council. I have spoken about it often in the chamber and in discussions with party leaders and other MLCs. The government has opposed the establishment of every upper house committee, ostensibly on the grounds of their 'disproportionate' numbers. I do not wish to rehash that debate here but it was appearing very unlikely that a functioning committee system would ever be established. I think that would be a travesty for the people of Victoria — to

have set up a proportionally elected upper house and then not equip it with the tools to become a proper house of review. Consequently, on 10 September last year, I moved that the Standing Orders Committee inquire into the establishment of standing committees for the Legislative Council including the number, composition, structure and functions of those committees, and the staffing and resources required for their effective operation. The Committee has been deliberating on the matter referred to it and a sub-committee undertook a study tour to more closely investigate the committees in the senate and the NSW upper house.

It is my hope that the Standing Orders Committee will be able to recommend to the Legislative Council a suitable model for standing committees based on the experiences of the Australian Senate and the NSW and WA upper houses, and that these can be established as soon as possible. I believe that a review of the joint committee system should also be undertaken down the track. Victoria has by far the most joint standing committees — the Senate, NSW and WA have very few.

Another practice that I feel could be adjusted to improve both scrutiny and public participation in the legislative processes is to slow down the passage of bills through the upper house. At present, the agreed process is to defer bills received from the lower house until the following sitting week. I understand that this is an improvement on the previous parliament when there was often no delay in debating bills. However, in the case of large and /or complex bills and bills where there is much community interest and debate, there needs to be a more open process. If the government has not itself released the bill as an exposure draft — and it does not have any record of doing that so far, then the Council should refer the bill to its Legislation Committee and/or defer debate on the bill to allow sufficient time for extensive public consultations.

I feel we are often under too much unnecessary and artificial pressure to pass bills without the appropriate level of scrutiny. The New Zealand parliament routinely allows two to three months of public debate on draft bills before formally debating them in the chamber. I also feel that neither house should debate a bill that has not completed its progress through the Scrutiny of Acts and Regulation Committee if that process is to be taken seriously. Few bills are genuinely urgent. If they are, then that can be accommodated as required.

In closing, I agree with John Uhr, who said in his address to the first public seminar of the Constitution Commission in 2001, that review of government is a very proactive task and should not be confined to fine tuning initiatives from the Executive. Our experiences in the Victorian parliament so far indicate that the government only grudgingly accepts scrutiny or amendment of its bills. It has been more hostile to proactive actions on the part of the non-government parties, such as private members bills, requests for documents, general motions or the establishment of inquiries. This is unfortunate because I believe this is what the Victorian public wants from its reformed upper house.

The timing of John Uhr's 2001 address reminds me that the job of reforming Victoria's upper house is a slow process and still has a way to go. We have proportional representation and some reforms of the standing orders, procedures, processes but more reforms are necessary and we will be working towards further reform. The establishment of a functioning standing committee system is under investigation, and hopefully may be in place before too long. Making sure that more members of the public know about the reforms and how to make effective use of them may take a little longer but is an essential ingredient of genuine upper house reform. ▲