

Independent Members in the Legislative Assembly of New South Wales — Periods of Change: Keynote Address

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Introduction

Although small in number, Independents in the New South Wales Legislative Assembly have used their bargaining power over the past two decades to both amend parliamentary procedure and accountability mechanisms, and to play a strong advocacy role for their electorates. The first part of my address will highlight two periods of change in the operations of the New South Wales Legislative Assembly, in which Independents played an active role. In the second part, I will briefly look at the advocacy role that New South Wales Independents have played when representing their rural and regional electorates.

The First Period of Change: Independents in a minority Parliament

The first period change occurred during a minority Parliament in 1991, when the government entered into a formal Memorandum of Understanding with three non-aligned Independents in return for a guarantee of support.

Following the 1991 election, there were 49 Coalition members (led by Nick Greiner), 46 Labor and 4 Independents, one of whom (Tony Windsor, Member for Tamworth) indicated that he would support the Coalition. The remaining three non-aligned Independents (John Hatton, member for South Coast, Clover Moore, member for Bligh and Peter MacDonald, the member for Manly) indicated to Premier Greiner that, in return for a broad range of measures to reform the Parliament, they would support the Government on motions regarding bills for Appropriation and Supply and on motions of no confidence, except in certain specified circumstances.

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The three non-aligned Independents subsequently drew up a Charter of Reform that was founded on the five principles of: open government, decentralisation of power, accountability, representation and integrity.¹ According to Kevin Rozzoli, these proposed reforms included legislation forcing all political parties and candidates to declare donations; more time for important bills to be debated in parliament; an overhaul of the standing orders in the Lower House to stop the majority party using its numbers to 'gag' debate; giving the Ombudsman power to determine Freedom of Information applications; the establishment of a committee to hear appeals on waste in the public service; and resources to enable them to be fully briefed before voting.²

After four months of negotiation between the three non-aligned Independents and the Premier, a Memorandum of Understanding was signed on 31 October 1991 and tabled in the Legislative Assembly. The key features of that Memorandum of Understanding were four year fixed parliamentary terms, strengthened roles for the Ombudsman and Auditor-General and a separate parliamentary *Appropriation Bill*.³ New Standing Orders were also subsequently adopted. These were written in plain English and included some of the procedural reforms that had been proposed by the Independents.

Although the non-aligned Independents failed to achieve all of their proposed reforms, Clover Moore, one of the signatories to the Charter of Reforms, believes that, as a result of the reforms was, for the first time in Australia's oldest parliament, 'real parliamentary democracy'.⁴

The position of Speaker also emerged as a potential bargaining point. Two of the Independents had considerable parliamentary experience, but both rejected the opportunity to become Speaker on the grounds that it would result in a loss of influence for the Independents.⁵ In fact, Kevin Rozzoli was subsequently re-elected as Speaker.

The Second Period of Change: The election of an independent member as Speaker of the NSW Legislative Assembly

The second period of change commenced in the aftermath of the 2007 elections. The Government was returned after the elections with a substantial majority in the Assembly. When the Parliament resumed sitting, however, there was an air of reform, with a substantial ministerial reshuffle. Furthermore, in the first major revision since 1996, new Legislative Assembly standing orders were adopted to

¹ Moore, C. 2003. 'Role of independents in New South Wales, Matter of Public Importance', 25 June 2003, *New South Wales Parliamentary Debates*, 607, Third series, vol. 301, p. 2146.

² Rozzoli, K. 2006. *Gavel to gavel: an insider's view of parliament*, p. 5, UNSW Press, Sydney.

³ Rozzoli, K. 2006. *Gavel to gavel: an insider's view of parliament*, p. 8, UNSW Press, Sydney.

⁴ Moore, C. 2003. 'Role of independents in New South Wales, Matter of Public Importance', 25 June 2003, *New South Wales Parliamentary Debates*, 607, Third series, vol. 301, p. 2146.

⁵ Rozzoli, K. 2006. *Gavel to gavel: an insider's view of parliament*, p. 4, UNSW Press, Sydney.

modernise some of the technical forms for ordering and arranging business, to streamline procedures for the consideration of bills, and to update the language.

A further significant change occurred when the Premier (Morris Iemma) said that he wished to lift the perception of Parliament and that all members would need to be on best behaviour or risk being removed from the Chamber. It was therefore a surprise to many, including myself, when, in a break from the long standing tradition that the Speaker would be a Government member, I was offered the Speakership. This was in spite of the fact that it would present a potential risk to the Government as they would not have early warning on how I might respond to points of order.

When I was subsequently elected unopposed, the Premier acknowledged that while an Independent Speaker gives the opportunity to raise the standards of Parliament, the ‘bearpit would never be a sandpit or polite debating society because politics is a real contest between ideas and competing visions for the public good’.⁶

Unlike the 1991 Independents, I took the view that, as the Speaker, I would have direct access to the Premier and all the Ministers of Parliament, which would result in improved, rather than reduced, access to the decision making process for the people of my electorate. Indeed, I believe that encouraging Ministers to visit my electorate has been a major factor in improving this access, and the fact that there have been more Ministerial visits to the Northern Tablelands over recent years, than has been seen in decades, supports this view.

One obstacle to my accepting the position of Speaker was the fact that, unlike the President of the Legislative Council, there was no provision in either the *NSW Constitution Act*, nor standing orders, to allow the Speaker to take a position during debate or to exercise a deliberative vote on matters before the House.

This problem was further exacerbated by the changes to the Legislative Assembly standing orders which dispensed with the Committee of the Whole procedure. Previously the Chairman of Committees would preside over the Committee stage of debate on bills, thereby allowing the Speaker to participate in debate, or even cast a deliberative vote, if so desired. Under the new procedures, the Speaker does not leave the Chair during the consideration in detail phase.

Anyone who knows me would be well aware that I would never be willing to forgo my say on the floor of the Chamber, particularly as the New South Wales Independents have, more than ever over the past few years, been very active participants in debates on bills, in Question Time, and in motions accorded priority,

⁶ Stewart, A. 2007. *An Independent Speaker: Constitutional Consequences*, paper presented at the Commonwealth Parliamentary Association 17th Australian and Pacific Regional Conference, Perth, 1–6 October 2007, p. 3.

matters of public importance and private members statements, and on Parliamentary committees.

By accepting the position of Speaker under the law and standing orders then in existence, I would be unable to continue to advocate the interests of my electorate in the Chamber.

The problem was resolved, however, when the New South Wales Parliament agreed to amend the *NSW Constitution Act* to enable the Speaker to take part in debates or discussions, and to vote, when not presiding in the Legislative Assembly.⁷ When introducing the *Constitution Amendment (Speaker) Bill*, the Minister speaking on behalf of the Premier noted that it was important for the Speaker to be able to give a voice to his electorate, particularly where the Speaker is not affiliated with a political party that has other representatives in the House.⁸

Sessional orders were also adopted by the Legislative Assembly so as to not preclude the Speaker from participating in debate or discussion or from voting on any question and to permit the 'member presiding' to give a casting vote in the event of an equality of votes.⁹ This latter amendment was important as the casting vote had previously been the prerogative of the Speaker only.

The election of a Deputy Speaker and two Assistant Speakers, and the appointment of four Temporary Speakers were appointed, two of whom are Opposition members, has also made it easier for me to continue to speak on issues of importance to my electorate. Indeed, I exercised my right to do this when, with one of the Opposition Temporary Speakers in the Chair, I was able to vote with the other Independents against the Standard Time Amendment (Daylight Savings) Bill.

Since the amendments to the *Constitution Act* and standing orders came into effect, I have made 32 private members statements in support of my electorate and spoken on a condolence motion on the Victorian bushfires. I have also recently introduced two private member's bills, both of which are awaiting consideration by the Assembly. The first of these, the *Food Amendment (Meat Grading) Bill*, proposes to amend the Food Act 2003 with respect to the advertising, packaging and labelling of meat, is of particular relevance to both my and other rural electorates.

The second bill, the *Parliamentary Remuneration Amendment (Salary Packaging) Bill*, proposes to enable members of Parliament to access salary packaging arrangements similar to those available to New South Wales public servants.

⁷ The amendment was made by the *Constitution Amendment (Speaker) Act 2007*.

⁸ Hornery, S. 2007. 'Constitution Amendment (Speaker) Bill 2007, Agreement in Principle Speech', 8 June 2007, *New South Wales Parliamentary Debates*, Number 636, Third Series, vol 330, p. 1101.

⁹ Both of these sessional orders were rescinded on 1 September 2009 and have now been formally adopted into the new Legislative Assembly Standing Orders that came into effect on that date.

On taking office as Speaker, I became aware of representations made by members of all parties seeking to modernise parliamentary remuneration. I decided that it would be appropriate for me to introduce a private member's bill in the interests of all the elected representatives in the New South Wales Parliament, as well as to advance the public interest by ensuring that aspects of the remuneration of members of Parliament are regulated in a contemporary and transparent manner.

I was also appointed to the three-member New South Wales Rural and Regional Taskforce that was established by the Premier in 2007 to examine and provide advice on key economic, environmental and social issues affecting rural and regional communities across NSW. The taskforce made a number of recommendations for the consideration of the New South Wales Government intended to address challenges of service delivery for communities outside the major urban centres.

The Role of Independents in Rural Electorates

I will conclude my address with some general comments on the role that Independents can play in voicing the issues and concerns of rural and regional communities.

Over the years there has been constant flak about the relevance of Independents and criticism that they cannot be effective unless they join a party. In 2003 I raised a matter of public importance in the Chamber about the role of Independents in New South Wales. I stated my conviction that the record of Independents in New South Wales is strong because they have delivered services, new and upgraded hospitals, vital road funding, upgraded police stations and record funding for school maintenance to their electorates.

Rather than being a hindrance I believe that the fact that Independents are unaligned gives them strength because we can represent our communities without being hindered by party dogma and processes and can negotiate with both Government and Opposition to achieve the best outcomes for the people of our electorates.

Clover Moore reiterated this view in her contribution to the matter of public importance mentioned earlier, when she said that 'she did not believe that people voted for her in the belief that she would hold the balance of power. People vote Independent for good representation, hard work, a voice for their aspirations and concerns, and for someone who is free of vested influence and who has essentially the same broad values that they have'.¹⁰

Although we advocate as individuals for our respective electorates, at the same time, the Independents can unite behind regional issues such as payroll tax

¹⁰ Moore, C. 2003. 'Role of independents in New South Wales, Matter of Public Importance', 25 June 2003, *New South Wales Parliamentary Debates*, 607, Third series, vol. 301, p. 2146.

exemptions the relocation of government departments and agencies into regional areas, and collective issues such as health, transport and police, which are very important to all of our communities. On this latter point, the New South Wales state Independent members recently put forward a Rural Health Strategy that directly addresses the outstanding health issues in rural areas and proposes solutions through the locally based Rural Medical School, multi-skilling of health professionals, increased broadband access to make specialist services more widely available and better public transport services. The strategy has received strong community support and interest at government level.

Let me conclude by saying that, when I decided to stand as an Independent for the seat of Northern Tablelands, it was clear that the views of the people of that area were not being well represented by the incumbent party. I therefore came in to the New South Wales Parliament in 1999 to represent an electorate which felt that their concerns were not being addressed, that they had no voice, and that a centralist Government was speaking on their behalf.

Including myself, there are currently six Independents in the New South Wales Legislative Assembly, and only one of us is from a Sydney-based electorate. We represent a wide diversity of areas, ranging from Tamworth and Dubbo in the west, Lake Macquarie, located in the Hunter Region to the north of Sydney, Port Macquarie on the mid-North Coast, and of course my electorate in the Northern Tablelands. And it is this diversity that gives the Independents the strength to effectively represent their electorates, irrespective of whether the Government has a clear majority, or, as happened in 1991, is in the minority.

Indeed, I believe that the work of the New South Wales Independent members over recent years has created a new confidence within our electorates in the ability of their local member to advocate on their behalf. As history has shown, the Independents can also play an instrumental role in parliamentary reform. ▲

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