

Dr Alistair Harkness is Lecturer in Criminal Justice, Monash University

Restraints upon the agenda: policy making in Victoria 1982–1992

Alistair Harkness

The election of John Cain's government 30 years ago in April 1982 broke Labor's 27 year electoral drought in Victoria, but the party's elevation to the treasury benches brought with it a decade of trials and tribulations for a party intent on enacting its social and economic policy agenda. Only limited academic literature exists on this period of governance in Australia's second most populous state. This article seeks to address this deficiency by analysing the inhibitors to executive government in the bicameral Victorian parliament by its second chamber, and by examining other impediments which confronted the governments of Cain and Joan Kirner between 1982 and 1992.¹

Victorian electoral politics was turgid until the 1950s, with governments forming and falling rapidly as alliances and allegiances altered. Following the ALP split in Victoria in 1955, stability ensued with the Liberal governments of Henry Bolte, Rupert Hamer and Lindsay Thompson dominating until the election of John Cain's Labor Government on 4 April 1982. The advent of the Cain administration was seen by many as a welcome change after the long continuous conservative reign that, by the late 1970s, had become politically exhausted. The Cain government prided itself on its 'counter-revolutionary' economic strategy — a style of Keynesian-inspired interventionist policy at odds with the (relatively) new and prevailing orthodoxy of Friedmanite free-market and governmental withdrawal from the economy. John Cain and his Labor team came to power with promises to implement substantial social reform in addition to pursuing this economic strategy. It was an openly and outwardly social-democratic government intent on satisfying not just the needs of workers and its traditional trade union base, but the ever-expanding middle class which had invested faith in the ALP in large numbers in 1982.

It is the contention of this article that various factors impede good governance but, as with other governments without a majority in both houses of a two-chamber legislature, the impact of the Legislative Council was most acutely felt by Victorian Labor during its decade in office. Despite maintaining the confidence of a majority

of members of the lower house, the lack of a majority in the upper house necessitated substantive and continual bargaining and negotiation in order for a policy agenda to be implemented.

Legislatures are an important part of the liberal-democratic tradition, constituting one of the three arms of the ‘doctrine’ of separation of powers, along with the executive and the judiciary. As law-making bodies, they have the ability to vet a potentially over-zealous or unscrupulous executive. Bicameral parliaments add an extra element to this system, requiring executive government to have its legislation pass through two houses. While upper houses are not inherently undesirable parliamentary institutions, the extent of their manipulation by executive government and the extent to which they force their own political will determines their degree of usefulness in the legislative process. Bicameralism is the foremost division of parliamentary power and while rationales for upper houses are diverse, the prime justification is to provide checks and balances. Evans notes that one of the prevailing themes of political thought is that legislative power should not be vested in a single body of persons alone,² a sentiment concisely expressed by Huntington in 1788; Shackleton and Clark assert the importance of a body of experienced people to revise and amend ‘ill-considered, defective, hasty, and even oppressive legislation coming from the House elected by universal suffrage’;³ and Lord Halisham agrees that the ‘Upper House must not be impotent, it must not simply be the tool or puppet of the Lower House’ arguing that checks and balances are essential to prevent an abuse of legitimate power. For Shell, ‘checks and balances’ translate as a means by which first chambers can be prevented from pushing through changes with important constitutional implications.⁴

Costar provides a detailed examination of bicameralism in Victoria, and this article does not seek to provide replication of his work.⁵ However, it is worth observing that, if structured correctly and appropriately, bicameral parliaments can provide effective checks and balances on executive government within Westminster-derived parliamentary systems by preventing the passing of hasty or harsh legislation by ensuring deliberation. The reflection of opinion of electors over a greater period of time, historically achieved by way of staggered terms, served to act as a brake on the most recent electoral success of a party in the lower house.⁶ Crucial in the modern era, however, is the need to ensure that upper houses act as houses of review — to approve legislation, to go into detail, and to scrutinise the legislative role of the lower house — but ought not merely replicate the lower house nor unnecessarily impede the actions of reformist governments. As Sawyer notes, ‘no one has succeeded in devising an upper house which is significantly different from the lower house, and that preserves the institutional advantage of a ‘brake’ while avoiding mere political bias.’⁷ In the Victorian experience, an upper house not controlled by the government can undermine (at worst) and frustrate (at best) the will of a reforming government. Internal party machinations and external interest groups constitute two other prominent and problematic constraints.

Managing the legislature: bicameralism in Victoria

Cowen expressed doubt about the usefulness of a bicameral system in Victoria:

No doubt as a revising chamber the Council can and does perform useful functions, but some may question the purpose of preserving a bicameral structure when the two houses are so identical in structure.⁸

Davies, too, questioned the usefulness of the Victorian upper house, describing it as ‘a malicious, mechanical coconut-shy ... pitching back bills and bits of bills, unpredictably’ and as a body whose veto worked by ‘a sort of convulsive shudder of the property interest’.⁹ Conversely, Sharman argues that strong upper houses are important as checks and balances to prevent executive excess. Just because governments win elections does not mean they should assume majority support for each and every subsequent proposal, or that an election win absolves them of the need to justify their legislation outside the confines of the party room.¹⁰

The 1982 election saw the ALP come within four seats of dominating the upper house. Had it not been for staggered terms (abolished in significant reforms made by the Bracks Labor Government in 2003), Labor would have controlled the Legislative Council. In 1982, upper house members elected at the 1979 election still had three years left of their terms. Staggered terms hark back to colonial times when they were introduced to insure against a government elected in the lower house on a popular whim, or a ‘majority of the moment’, and in the Victorian experience Council terms were fixed for six years duration until reforms passed in 1984 made them two terms of the Assembly. The clear aim was to entrench a conservative majority in the second chamber. Former Liberal Minister Rob Knowles is one defender of staggered terms, arguing that in a bicameral system there must be some basis of differentiating the upper house from the lower house, and one such method of differentiation is to have upper house members elected at separate elections: to maintain some tension that forces an upper house to allow governments to make difficult decisions; and to provide a different composition.¹¹ Characteristic of those who disagree is former Labor Premier Steve Bracks who argues that having a ‘fresh mandate’ rather than a ‘stale mandate’ is preferable, and that it is undesirable that half of the upper house is representative of a different era and a different mood of the electorate.¹²

Obstructionist or rubber stamp?

Members of the Cain government regularly bemoaned the fact that Labor’s policy program could not be passed into law in its entirety, although former Liberal Party parliamentarians deny that they acted obstructively during the Labor decade. One of the eternal questions in Victorian politics is whether, when controlled by the opposition, the upper house is obstructionist; and when controlled by the government is a rubber stamp. Following the 1982 election, Alan Hunt, as Leader of the Liberal Party in the upper house, adopted a set of constitutional and tactical guidelines to shape the party’s behaviour and performance in opposition, including

recognition that the Liberals were not in government and ought not attempt to govern from the upper house.¹³

Ken Coghill, a former Labor MP and Speaker of the Victorian Legislative Assembly, argues that throughout the 1980s and early 1990s Labor was ‘in Government but not in power’, noting that this was a frequent lament of members and supporters of the Cain and Kirner administrations.¹⁴ From its genesis, the Cain government faced a hostile upper house intent on forcing amendments upon legislation, or simply by blocking it either in the parliament or by indicating that if introduced, certain legislation would not pass. However, Coghill notes that the overwhelming majority of government Bills were passed without a division at any stage — 80 per cent over the 10-year period.¹⁵ Looking at these figures and comparing the proportion of Bills that were blocked or amended alone is misleading because it fails to take into account the number of Bills that were not presented because they had no chance of success. Significant is the number of Bills the government abandoned even before they were due to be debated by parliament. In the first term, there were just two, but in the second term 28 (7 per cent) and in the third term 40 (9.8 per cent).¹⁶ In a number of cases, amendments by the Council changed the policy effect of Bills, but the government proceeded with them nevertheless.

Paul Rodan argues that, when faced with a hostile upper house, governing parties may react in one or a combination of three broad ways: first, in a confrontationist approach where a full policy agenda is presented and when blocked the upper house is portrayed as obstruction of a mandate; second, for a government to be selective in what it presents, and to reluctantly accept amendments for the sake of getting some legislation passed; and, third, to negotiate and horse trade with other parties, although this is only applicable when the third party holds a balance of power. Cain opted largely for Rodan’s second option, with the most spectacular example of the government’s retreat on an issue was its failure to legislate for the reintroduction of probate duty — a much vaunted election commitment. The non-Labor parties clearly outlined their intention to block the necessary legislation and, after a month of vitriolic public debate, the Bill was withdrawn, never to be reintroduced.¹⁷

In 1983 several bills were blocked or substantially amended, including moves to remove the minimum price of beer,¹⁸ proposed changes to municipal election rules and procedures to allow non-naturalised Australians to hold office in local government,¹⁹ a Bill concerned with the real estate industry,²⁰ and payroll tax.²¹ The conservatives planned to use their numbers to block historic-buildings legislation, which was dropped by the government as a result.²² The National Party failed to rule out blocking legislation it did not believe was in the best interests of the state, for instance indicating that it would block supply in order to prevent probate duty²³ — a display of arrogance, according to some commentators.²⁴ The Liberal Party also threatened to block the much promised prostitution law reform legislation²⁵ and later, under Alan Brown’s leadership, attempts were made to block the sale of the State Insurance Office (although Kennett had proposed its sale in 1984).²⁶

Supply bills

The issue of blocking supply represents an interesting constitutional dilemma, and raises questions about the role of upper houses in a Westminster-derived system of government — exactly what role should an upper house play in securing accountable government? Australian parliaments are based upon the Westminster system of responsible government, whereby governments are formed by the support of a majority in the lower house. This system differs greatly from the system of separation of powers found in the United States, in which the executive, legislature and judiciary are kept more at arm's length from one another.²⁷ During this decade, the Legislative Council remained overly powerful on general legislation, with no double-dissolution provision in the state's constitution; had the ability to reject or amend legislation originating in the Assembly, often with apparent impunity; and possessed the ability to block money bills until April 2003. This power of veto opened the way for partisan and opportunistic politics to interfere with a Government's legislative program. Unlike the Australian Constitution, Victoria had no provision for dissolving both houses of parliament should a recalcitrant Legislative Council continually refuse to pass Bills. Again, this was a deliberate decision by the constitution makers to prevent the upper house being dissolved by a 'radical' government in the lower house.²⁸

Apart from constitutional considerations, matters central to democratic ideals are raised with the blocking of government Bills by an upper house. The age-old issue of the existence or otherwise of a mandate is raised when an upper house decides to block or amend Bills originating in the lower house, or to go to the extreme and block — or merely threaten to block — money bills. In recent years there has been a revival of the term, with governments and oppositions claiming or denying a mandate, although few discount the applicability of the doctrine when advantageous to do so. Much confusion and ambiguity surround the term, and ownership of a mandate is further confused in a bicameral parliament where the government does not control both houses.²⁹ While a tenuous notion, often confused with much rhetoric, there does remain the underlying principle that a government is elected with a general mandate to govern. Most governments are also elected with a specific mandate to implement particular policies announced during an election campaign, but to deny a government supply is to deny the existence of any mandate at all.

Jaensch questions the relationship between the opinions of the voters and the decisions their representatives make once elected.³⁰ Emy observes that the term mandate 'flourishes despite criticisms', and notes that much broader constitutional questions are raised concerning the relationship between the executive and the legislature, and between the two houses of parliament.³¹ The doctrine of mandate is complicated in bicameral parliaments where, with two chambers and two ballot papers, it can be logically argued that there are two elections on one day — one for each house.³² Often, when a government comes to power or is re-elected, it may claim that non-government members of the upper house should respect the government's mandate. Invariably, though, opponents of a government claim that they,

too, have been awarded a (counter-) mandate by the people who voted for them. The crux is whether the two houses have equal powers, and thus multiple mandates, or whether the lower house (where government is formed) takes precedence.³³ Mandate theory raises a multitude of issues. If a party wins government with a bare majority, or indeed less than a plurality of the vote, does it have as strong a mandate as would a government with an overwhelming majority? Does a mandate last for an entire term, or should public opinion be considered throughout a government's term? Are there, indeed, multiple mandates, counter-mandates, or a mandate to oppose in a bicameral parliamentary system? What mandate does a government possess to deal with change should new issues arise? In a majoritarian political system such as in Victoria, winning government does not automatically bestow the right to implement everything in a party's election platform.

Amendments to section 66 of the Victorian constitution in 1984 allowed for four-year parliamentary terms, with a minimum of three years. This was subject to three exceptions: a vote of no confidence in the government by the Legislative Assembly; the rejection twice by the Council of a 'bill of significant importance'; and the rejection or failure to pass an appropriation bill 'for the ordinary annual services of the Government'. Section 4, subsection (3)(c) of the constitution deals with the matter of supply bills or, more precisely, with the appropriation of the Consolidated Fund for the ordinary annual services of government, but does not include a Bill to appropriate moneys for the construction or acquisition of public works, land or buildings; the construction or acquisition of plant or equipment that would normally be regarded as involving an expenditure of capital; appropriations for the services proposed to be provided by the government and that have not formerly been provided by the government; or appropriations for or relating to the parliament.

Since supply bills in Victoria traditionally contain one or more of these items, the rejection of a money bill will not automatically enable the dissolution of the Legislative Assembly. Should the Council choose to block supply in the first three years of a government's term, no double-dissolution provisions existed to resolve the dispute. The only feasible route out of such a scenario was through negotiation. Supply has been formally blocked by the Legislative Council seven times in Victorian history, and during the Labor decade there were a number of occasions when it seemed likely that supply would be blocked again, as the Liberal Party under the leadership of both Jeff Kennett and Alan Brown eagerly sought government.

The Liberal Party realised, as the 1982 election approached, that retaining government was unlikely. Comments by Liberal minister Digby Crozier in 1979 were probably an indication of things to come when he indicated a belief that his party should use its upper house numbers to 'sack' a Labor government if it tried to introduce 'socialist' legislation.³⁴ Labor introduced legislation in May 1982 designed to remove the Legislative Council's right to reject supply, but not affect its power on other money bills. The legislation would provide 'certain, solid and secure government', Cain argued, and would 'end forever the threat of a popularly-elected government, with a clear majority in the Legislative Assembly, being forced

out of office by the malice or caprice of the Legislative Council'.³⁵ The *Age* described the legislation as appealing on democratic principle, and a good tactical manoeuvre,³⁶ and the *Herald* declared that the conservative parties would be 'irresponsible' to block it.³⁷ Nevertheless, with the non-Labor parties declining to rule out the possibility of blocking supply, Cain indicated early in the first term that he was prepared to call another election if supply were blocked.

Apparently believing that Labor was destined to win control of both houses after the 1985 election, the Liberal Party was relatively accommodating in its approach to the government's reform agenda for the upper house during the first term. In late 1983, the Liberals announced an eight-point package of parliamentary reforms, including the removal of the power of the upper house to block supply. Hunt, the Liberal leader in the Council, said that it was a clear indication that 'a remarkable degree of movement' had occurred in reconciling the divergent views of the two major parties.³⁸ The Liberal package also proposed four-year fixed terms for the Legislative Assembly, basic constitutional alteration by referendum, and early elections only as a result of a successful no confidence motion or if a vital Bill is rejected twice in six months.³⁹ However, the Nationals were adamant of the need for the upper house to be able to block supply.⁴⁰

Opposition Leader Jeff Kennett vowed in 1983 that the Liberals would not use a majority in the upper house to force an election, saying the Liberal Party did not have to throw out a government to win office, and cited the 1975 federal imbroglio as reason enough for not prompting a constitutional crisis.⁴¹ Nevertheless, by 1985 he was not so sure, and appeared to be leaving open the possibility of forcing an early election. Given that constitutional reform in 1984 precluded an election normally being called within three years of the previous one, Kennett's options were limited to twice rejecting a Bill of 'special importance' (as determined by the government) or rejecting or failing to pass an appropriation Bill 'for the ordinary services of government'. The Cain government was not going to succumb to the former, and in regard to the latter had framed a budget so that budget bills were not appropriation bills as defined by the amended Constitution Act.⁴²

Hunt was adamantly opposed to blocking supply,⁴³ and he argued that he could not see a situation arising when supply would be blocked.⁴⁴ However, the National Party differed, with Peter Ross-Edwards refusing to rule out the possibility of supply being blocked.⁴⁵ Towards the end of 1990, with Alan Brown having won the Liberal Party leadership from Kennett the previous year, Kennett applied pressure from the backbench for the Liberals to block supply, even calling his colleagues 'wimps'. Pressure, too, came from the Young Liberals, who argued that 'it is a right of the upper house of a parliament to block supply to a government in the lower house'.⁴⁶

Despite the talk of blocking supply, the term of the Kirner government was fixed for a minimum of three years, until at least late 1991, and after that at the government's discretion up to a maximum four-year term.⁴⁷ Nevertheless, Kennett

announced in 1991, upon his return to the Liberal leadership, that supply would be blocked in order to bring about an election. He offered Labor ‘a way through the constitutional maze’ to engineer an early election without provoking a constitutional crisis by introducing a private member’s bill in the legislative council that would have effectively suspended the constitutional blockage of an early poll. He highlighted ‘reprehensible circumstances’ to justify this position and warned of a ‘quantum leap’ in his campaign if the Kirner Government did not acquiesce.⁴⁸ Supply was finally passed on the last sitting day of the session.

It was soon apparent that the government would not resign and constitutionally no election could be called within the first three years of the parliamentary term. When an attempt to dissolve the parliament via a Liberal-proposed Constitution (Dissolution of the Legislative Assembly) Bill in May 1991 failed, Kennett changed tactics. He announced that unless the entire Labor government resigned by midnight on 19 May 1991, retrospective legislation would be introduced by a future Liberal government to preclude resigning or defeated members from accessing government-funded superannuation benefits. Kennett was roundly attacked, by the state and federal governments, in the press, and by members of his own party.⁴⁹

Cabinet cohesiveness

While Cabinet meetings were excessively informal until 1982, and no minutes of meetings were kept, Cain’s approach was dramatically different. Indeed, it is speculated that before 1982, some ministers wrote notes of actions to take on the back of match boxes! Cain wanted Cabinet processes to be smooth and systematic, and set out some basic precepts to ensure that this was so.⁵⁰ Cain nominates his first Cabinet as the best,⁵¹ whereas Evan Walker rightly identifies the second Cabinet of 1985–88 as more balanced, in factional and gender terms.⁵² One problem that faced the government in its third term was the transfer of ministers from the upper house to the lower house. Just as both Rupert Hamer and Lindsay Thompson had moved to the lower house to pursue leadership ambitions within the Liberal Party, so did several Labor MPs. Cain was angered that in 1988 three ministers from the upper house decided to move to the lower house, concerned about the effect of denuding the upper house of talented MPs, and Cain blamed leadership ambitions and factional manoeuvrings.⁵³ Mathews sat in Cabinet for the first two terms, and rates the first as ‘outstanding’ and the second as being of a very good order, and cannot cite an occasion during those seven years when the notion of a Cabinet consensus did not work to perfection. He believes that there was enough experience, but that there was a dilution of overall quality in the third term, which was certainly not up to the standard of the original Cain Government.⁵⁴ Another former Cabinet minister explains that factionalism became very intense within Cabinet when people lost confidence in Cain’s ability to deal with issues such as the collapse of the Geelong-based Pyramid and Countrywide building societies, and the inner sanctum turned against him. Cain reportedly did not take a high profile role in defending the government. Opportunity for advancement was reduced and there was some fighting for what remained, although with electoral doom pending, individuals were

concerned with political survival. Other ministers simply tired, some became more interested in undermining others, and some in the ministry were just incompetent or lacklustre.

Factionalism prior to 1989 can be described as constructive — but certainly destructive thereafter. In 1988, Labor's Legislative Assembly majority was three and the factions negotiated an agreement concerning parliamentary positions in an attempt to ensure stability. However, the government was facing a range of internal and external problems. Cain's leadership had become destabilised and the factions did not allow the government to function in the steady way it had previously. This can be attributed largely to the factions becoming ideologically closer with no clear-cut differences. As a result, patronage became a higher priority than policy formation. By the end of Cain's tenure as Premier, strict observance of several of his key precepts for good government outlined in 1982 — including 'that Cabinet got corporate and quality decision-making'⁵⁵ — no longer occurred.

Factionalism

Political parties such as the ALP are born of different or varying views, rules, norms and dynamics. It is not surprising, therefore, that members of the party will have different perspectives and outlooks. Clusters of members of any organised group will often form cliques or factions. Highly structured and organised factions first emerged in the ALP after 1970, although factionalism has dominated the Labor Party since its genesis. While the party's foundation is based on certain core principles and guiding lights, its constituent parts have differed greatly at times on ideology (publicly), but more generally on personality (internally).⁵⁶ It is worth noting that, as with any organisation, political parties require a management system to maintain order and concentrate attention on goal attainment. Graham Hudson argues that in the Victorian branch of the ALP, the factions provide the effective management, and the existence of formalised factions is the conscious result of the reformation of the party following federal intervention in the early 1970s.⁵⁷

Since the 1980s, the ALP has engaged in open factionalism. James Jupp declared, somewhat prophetically in 1985, that the main threat to continued Labor domination in Victoria would be internal disunity and failure to meet the expectations of the electorate. There was no reason, he wrote, why Victoria should not be a natural Labor state: it had the biggest Catholic population and the Democratic Labor Party had effectively met its demise; two-thirds of the population live in Melbourne, with its manufacturing base and workforce and a strong ethnic background drawn from southern European migrants; and areas such as Geelong and the Latrobe Valley have large manual workforces (although these have diminished greatly in recent years).⁵⁸

By the end of the 1980s, the Labor Unity faction had lost numbers in caucus and Cabinet, and a deep split occurred in the Socialist Left faction in 1990 which saw the emergence of the breakaway Pledge group. Union amalgamations in the late

1980s did not have a dramatic political effect on the Victorian ALP. The unions had 60 per cent of delegates to the state conference, but very rarely voted as a bloc. Rather, they voted along factional lines, and Labor Unity managed to secure control of the Victorian branches of a number of key large amalgamated unions.

Prior to the 1982 election, the Liberals claimed Cain would be the puppet of the Socialist Left, and ran this as a campaign issue, but were unable to demonstrate the nature or effect of this apparent Socialist Left domination. Cain denied any influence existed, saying ‘I am answerable to no individual or faction within the Labor Party.’⁵⁹ Cain gives a lucid account of the effect of factions on the government he led,⁶⁰ and Hudson rightly highlights that ‘the management of the party’s affairs became an issue of critical importance during the life of the Cain and Kirner Governments’.⁶¹

The role of factions within Cabinet became a much bigger problem during the third term. It became unbalanced and Cain, who was non-aligned, was stranded without much influence over what occurred. As the factions solidified and became more rigid in both Cabinet and caucus, this left Cain with little room to manoeuvre. Even though the full effects were manifested after 1988, when ministers were foisted on Cain without him having much say, there is some evidence that destructive factionalism started in 1984 with the re-entry of four right-wing unions. During the Kirner premiership, factions had become dominant and demanding and, like Cain, Kirner was not able to exercise any real leadership to achieve a cohesive team and cohesive policy responses to issues as they arose.

Some of the problems experienced in the government’s third term were signalled when after the 1985 election Pauline Toner was dropped from Cabinet. There was bitterness and back-stabbing, with Labor Unity ministers undermining or making comments in the press about Left ministers and vice versa. While there existed some factional power players within Cabinet, the real players were non-parliamentarians with some operatives attending caucus faction meetings.

Managing external relations — the Commonwealth, the union movement and the public sector

More often than not, and especially at annual Premiers’ Conferences, Victorian Labor had a different outlook from federal Labor counterparts on policy direction, and the two administrations often clashed privately, although less often publicly. But underlying federal tensions remained throughout the course of the Cain government as they had in previous Liberal administrations. Fiscal federalism, the transfer of monies from the Commonwealth to the states (essential after states’ income-taxing powers were effectively removed after the Second World War), became an increasingly sore point throughout the 1980s between the Labor states and the Commonwealth Labor leadership. Each successive Premiers’ Conference became a cause for disgruntlement, as the states saw themselves receiving an even smaller share of the fiscal pie.⁶²

Victoria was the first state to be affected by the national economic downturn in 1989, and with its large manufacturing base and with a downturn in that sector and a greater reliance on the services sector, the state was vulnerable to interest rate rises. Another critical factor was that the federal government continually reduced the amount of money it was providing to the states. Victoria required more cash in order to manage the budget effectively. Tension between the state and federal administrations was palpable, with the economic advice from the Department of Management and Budget and the Commonwealth Treasury to their respective treasurers being vastly different.⁶³ Cain notes that while relations started out well with the federal colleagues, they had deteriorated by the mid-1980s. The poor nature of the relationship in later years meant that the Victorian government was not kept properly informed about the precarious position of some of the state's financial institutions.⁶⁴

Specific interest groups, when structured and organised, can apply significant pressure to government. Australian state governments are likely to be pressured by a wide variety of interests, including the Commonwealth government, the bureaucracy, unions (particularly the public sector unions), and many private interest groups. Labor's initial success can largely be attributed to the way in which the government was able to include all protagonists in a consultative way, including sections of the community that would not previously have been considered friendly to Labor, such as business groups. Pressure groups were most forceful during the Labor decade on issues such as prostitution, liquor, and gun-law reform, and on issues such as invitro fertilisation (IVF) and abortion. However, perhaps the strongest pressure group on a Labor government is the union movement. Trade unions are a key pressure group in Australian political life and, generally, are more problematic for Labor administrations than for conservative ones by virtue of the fact that they have more leverage over the party of which they are a fundamental part. Unions have two key strengths against a Labor government. First is the ability to withdraw labour in the form of strike action, which can embarrass the government through criticism that they cannot control workers. Second, with a substantial number of delegates to state and national conferences, and with key unionists on internal panels such as the Public Office Selection Committee, the trade union movement can exert influence over preselection decisions, policy decisions and a range of other internal party issues. Nevertheless, during the 1980s, when Labor was in power both in Victoria and at federal level, industrial disputation fell markedly in Victoria. This occurred despite industrial unrest being more prevalent around the nation. Disturbing to many union leaders and ALP insiders, however, was the disastrous and drawn-out tram blockade of Melbourne in 1990.

There were some issues on which the government was seen to closely mirror Trades Hall policy, and this was expressed via union involvement in the faction system and in the domination by union delegates at state conference. There were a number of instances in the later period of the government where the union movement forced government policy to reflect the input of the relevant unions rather than the interests of the community as a whole. For example, the union movement was much more

concerned about the industrial rights of teachers than it was about the outcomes in the education system. Thompson notes that there is a large body of research to indicate that relationships between ministers and the public servants are not simple and cannot be illustrated in classic Westminster terms. The relationship is made complex by the capacities and status of ministers themselves and the power of the bureaucracy as a whole and the relative power of individual departments.⁶⁵ The rise of ‘new public management’ in the 1980s saw a trend towards management consultants from the private sector adopting a key role in the policy-making process, a role formerly and traditionally the domain of the public sector bureaucracy.⁶⁶ Incoming governments have a tendency to want to overhaul the bureaucracy, in terms of both structure and personnel. Early in its first term, Labor initiated substantial public sector reform, creating a ‘reform-oriented bureaucracy’ characterised by increasing ‘managerialism’ and appointment of outsiders to the ranks of the bureaucracy.⁶⁷ Good policy making can be threatened by the overt politicisation of the public service.⁶⁸

One way in which the public service can be politicised is by policy-related politicisation, whereby people are appointed with well-known commitments to particular policy directions by one government that may render them unacceptable to a future alternative government.⁶⁹ Involvement by the legislature in the policy process has become increasingly irrelevant as consultants carry out much of the role of policy making. The legislature, it would appear, only exists now to vote into law policies presented to it by the executive — who themselves rely on external consultants.⁷⁰

Conclusion

The 1992 election was an emphatic termination of Labor’s decade in office, with the Coalition parties under Kennett’s leadership achieving a 34-seat majority.⁷¹ Accumulatively, the Government’s response to the monetary difficulties of a number of financial organisations in the early 1990s ultimately reversed the Labor government’s fortunes. This was compounded by the budgetary situation deteriorating as a result of the economic downturn and exacerbating and building on the perception that the Government was an incompetent economic manager. Another contributing factor that caused the government to fall heavily was high interest rates, although that was a fundamental that faced all states. After the Nunawading re-election in 1985 and the realisation that Labor would not have control of the upper house in its second term, the Liberal Party felt secure in using its numbers to block or amend legislation in the upper house.

The need for providing checks and balances against the excesses of government between elections is a crucial requirement in any liberal democracy. An effective upper house can well contribute to such a parliamentary function. However, there exist several impediments for reformist social democratic administrations in bicameral systems, and the lack of a government majority in a second chamber requires substantive and continual bargaining and negotiating for a policy agenda to be implemented. ▲

Endnotes

- ¹ Considine and Costar's work addresses the period 1982–92: see M. Considine & B. Costar (eds) 1992, *Trails in Power: Cain, Kirner and Victoria 1982–1992*, Carlton, Vic: MUP. The following texts are similarly useful: B. Costar & C Hughes (eds) 1983, *Labor to Office*. Blackburn, Vic: Drummond; and P.R. Hay, J Halligan, J. Warhurst & B. Costar (eds) 1985, *Essays on Victorian Politics*, Warnambool, Vic: Warnambool Institute Press. Cain's own book, a *quasi* memoir, also analyses some of the key commitments and events that shaped his government: J. Cain 1995, *John Cain's Years: Power, Parties and Politics*, Carlton, Vic: MUP
- ² H. Evans 1995, 'Citizen Initiated Referendums: Adjunct or Antithesis of Constitutional Government?', address to the Samuel Griffith Society Conference, *Upholding the Australian Constitution*, Carlton, Vic
- ³ L. Shackleton & G. Clark 1982, 'The Role of Second Chambers', *The Parliamentarian* 63(4), p. 204
- ⁴ D. Shell 1988, *The House of Lords*, London: Philip Allan, p. 2
- ⁵ B. Costar 2003, 'Accountability or Representation? Victorian bicameralism', Department of the Senate Occasional Lecture Series, 28 March
- ⁶ K.C. Wheare, 1963, *Legislatures*, London: Oxford University Press, p. 212. Stockley divides the check and balances into four distinct roles, and provides advantages and disadvantages of each: A. Stockley 1986, 'Bicameralism in the New Zealand Context', *Victoria University of Wellington Law Review* 16, pp. 383–5
- ⁷ Nevertheless, Hewitt questions whether an upper house provides any check on the lower house if the electoral system itself can be changed, as is the case in Australia: Hewitt, E.E. 1992. *Cameral Government: Unicameral and Bicameral Legislatures*. Melbourne: Viridia Books, pp. 191–2
- ⁸ Zelman Cowen, 1957, 'Historical Survey of the Constitution: 1856–1956' cited in C.E. Sayers, 1958. *One Hundred Years of Responsible Government*, Melbourne: Government Printer
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