

Dr Paul Lobban is Executive Officer, Economic and Finance Committee
House of Assembly, Parliament of South Australia

Who cares wins: parliamentary committees and the executive

Paul Lobban

At the recent Australasian Council of Public Accounts Committees (ACPAC) conference in Perth, Andrew Murray, former Democrats Senator, presented a paper entitled ‘Parliamentarians, Politicians and Accountability’. Part of that paper asserted a basic dichotomy at the core of political representation in our system of government — the choice each member of parliament faces with respect to how they identify themselves:

A parliamentarian supports parliament, its institutions, its power, its purpose. A politician is more concerned with government.¹

I suspect many people in the room that day, like me, experienced a flicker — or perhaps a surge — of reflexive cynicism on hearing those comments: it is hard not to. Cynicism is an easy disease to contract and debilitating once established and no one could deny the power of Senator Murray’s appeal to, if not the better angels of our nature then at least that part of us that understands and sympathises with the idea of the ‘parliamentarian’ implicit in his description. However, cynicism does not — or should not — materialise from thin air: it is conceived in behaviour that first questions and then wounds our belief in the ideas and institutions to which we once subscribed. Feeling cynical about calls for members of parliament to behave in ways not fundamentally directed by political imperative or compulsion is a direct response to having seen such behaviour on such a constant basis it no longer feels so much out of the ordinary as chronic.

This feeling is well captured by the 2nd Earl Baldwin of Bewdley:

The House of Commons is a heart-breaking place. The wasted hours; the old-fashioned machinery of government; the opposition for the sake of opposition; the interminable talking that has not the slightest effect, and the pile of legislation that need never come to us for decision throws a pall on all and sundry. The deadening

¹ Andrew Murray, ‘Parliamentarians, Politicians and Accountability’, *Australasian Council of Public Accounts Committees (ACPAC), Eleventh Biennial Conference, Perth WA, 28 April 2011*.

effect of the comfort and warmth so easily enable one to forget the purpose of one's presence, and the vain endeavours to seek justice for a constituent make one wonder at the life one is leading, and deplore the ineffectiveness of one's labours.²

I make these initial observations because they form a backdrop to my discussion about the Parliament versus the Executive, particularly in the context of parliamentary committees in the SA Parliament. In their article, 'What's In It for Us? Why Governments Need Well Resourced Parliaments', Jordan Bastoni and Clem Macintyre, as part of a wider discussion on the condition of parliaments and their committees, make the following remarks:

In parliaments that are small and especially when the government of the day is in a commanding position, there is an inevitable temptation to treat the parliament with disrespect, and to begin to evidence complacency and hubris not only in dealings with the parliament, but also with the people. Recent events in [...] SA politics can be seen to illustrate this point.³

Rather than proceed to the particular examples in the article (which centre on behaviour in the chamber), I would assert that the condition of committees in the SA Parliament, particularly but not exclusively in the House of Assembly, is illustrative of the attitudes of which Bastoni and Macintyre speak.

I suppose the theme of this conference has come at an opportune time for me as it comes in the year I mark ten years in parliamentary committees. It also comes on the twentieth anniversary of the introduction of the current committee system in SA. I am, if I say so myself, a sort of barometer of where the system has gone in its second decade. Indeed I wondered at various times while preparing this paper whether the idea of the parliament versus the executive had strayed into uncertain philosophical waters. Was the proposition so undermined it now constituted a category error? After all, the parliament versus the executive implies a contest between two entities capable of having a contest, which in itself implies a kind of equivalence of power or standing by which parliament or the executive might contend with each other to have influence over a course of action. This, of course, does happen in the SA House of Assembly to the extent that there are things called parliamentary committees which meet, have memberships and publish reports. If we are to extrapolate from this that these committees, which consist of members of parliament many of whom form part of the party holding power, are receptacles of some kind of authority, derived from the Parliament, that might contest with the imperatives of the executive branch of government in which members also have an interest then, I contend (and other committee staff might agree) we would be in danger of committing the same kind of error as assuming Daniel Radcliffe can fly on a broomstick because he played a wizard in a film.

² Oliver Baldwin, *The Questing Beast*, Grayson & Grayson, 1932: 141.

³ Jordan Bastoni and Clement Macintyre, 'What's In It for Us? Why governments need well resourced parliaments', *Australian Parliamentary Review*, Autumn 2010, 25(1): 178.

So, to paraphrase Tolstoy, if effective committee systems are all alike but ineffective committee systems are ineffective in their own way, what characterises the SA committee system's ineffectiveness?

In SA, the committee system is established under the *Parliamentary Committees Act 1991*. When the Act was introduced into the Parliament it was accompanied by a squall of high-minded rhetoric about the place of committees in the parliamentary system:

It is important that all the decisions of Government, no matter how complex and irrespective of their size and consequence, are able to be put under scrutiny. In a democratic society with a system of government responsible to Parliament, that scrutiny to a considerable extent is carried out by Parliament. These proposals will enhance that process. [...] The business of Government at the end of the twentieth century should continue to be accessible to the people; they should be able to influence and examine what their Governments do on behalf both directly and through their parliamentary representatives. The changes proposed in this Bill acknowledge the complexity of a modern urban industrialized community and of the right of citizens to hold their elected representatives to account for their decisions and for their actions. It is a sign of the health of a democracy that open debate is encouraged.⁴

From the point of view of the Economic and Finance Committee — the only committee I will deal with in detail in this instance — many of those principles didn't make it out of the twentieth century alive. Created to replace the previous Public Accounts Committee — as I have written at the top of every speech given by my committee at national public accounts conferences — the Economic and Finance Committee is unlike any other public accounts committee. It is primarily unlike public accounts committees in that it isn't one at all.

Section 6 of the Act provides the functions of the committee are to inquire into, consider and report on:

- i. any matter concerned with finance or economic development;
- ii. any matter concerned with the structure, organisation and efficiency of any area of public sector operations or the ways in which efficiency and service delivery might be enhanced in any area of public sector operations;
- iii. any matter concerned with the functions or operations of a particular public officer or a particular State instrumentality or publicly funded body (other than a statutory authority) or whether a particular public office or particular State instrumentality (other than a statutory authority) should continue to exist or whether changes should be made to improve efficiency and effectiveness in the area;

⁴ SA House of Assembly, *Hansard*, 13 August 1991: 85.

- iv. any matter concerned with regulation of business or other economic or financial activity or whether such regulation should be retained or modified in any area;
- v. to perform such other functions as are imposed on the Committee under this or any other Act or by resolution of both Houses.

In 1994 the Act was amended to create additional committees, one of which was the Statutory Authorities Review Committee (comprised entirely from the Legislative Council), which removed statutory authorities from the EFC's remit. In addition to this, under the Act's definitions of State instrumentality and publicly funded body the Economic and Finance Committee is prohibited from inquiring into Parliament or its Members, Courts and Tribunals or their Members, or Local Councils or their Members. All of these have perfectly sensible rationales: although the Membership of the previous Economic and Finance Committee thought otherwise in relation to local government and instructed me to provide Terms of Reference to enable some sort of investigation into local government (see the Committee's 62nd Report: *Local Government Audit and Oversight*).

When the *Parliamentary Committees Act* was debated, the Economic and Finance Committee was described in the following terms:

State finances are the most critical element of Government administration. Whether the focus is actual government operation, statutory authorities, or the regulation of economic and financial activity, this expanded committee represents the Government's commitment, first, to the importance of getting the fundamentals right and, secondly, to ensuring that good quality debate can emerge in the Parliament as a result of the reports and reviews undertaken by Members of the House of Assembly.⁵

The Committee has recently tabled its 76th report — the Annual Report for 2010–2011 — in which it records that in the last financial year it tabled two reports: the Emergency Services Levy 2011–2012 (a statutorily imposed obligation that if not completed does not prevent the aforementioned levy being imposed but makes the Committee appear indolent) and the Annual Report 2009–2010. These two reports are the default setting for every year since 2000, and between 1993 and 1999 there were regular Annual Reports. As a result, of the 76 reports of the Economic and Finance Committee, around 30 have been routine reports produced out of external or self-imposed compulsion, leaving 46 non-routine reports over 20 years.

To look at the first ten years of the Committee's activities shows the aspirations of the Act's supporters providing a certain momentum. Reports in the 1990s covered issues such as the commercial activities of State instrumentalities, the operations of the Adelaide Formula One Grand Prix Board, government consultants, public service executive salaries, Third Party Property Motor Vehicle Insurance, the Multi-Function Polis, Electricity Reform and the Energy Market and State Overseas Offices. While anyone familiar with the political history of SA will be able to

⁵ SA House of Assembly, *Hansard*, 13 August 1991: 87.

superimpose on the Committee's reports the varying fortunes and travails of the government during this period — and towards the end the nature of the reports reflects the exposure of the then government to political attack on account of its minority status, the loss of an effective majority in the Economic and Finance Committee, the strength of the Opposition Members on the Committee (comprising a future Treasurer and Leader of Government Business) and its own internal tensions — the issues at play broadly reflect the remit provided to the Committee in the Act.

From the 2002 election onwards, the Economic and Finance Committee, under a new government, quickly became a victim of that Government's previous successes in Opposition. In the 50th Parliament (2002–2006), the Committee's work was dominated by a controversial, heavily publicised inquiry into the use of a bank account in the Attorney-General's Department by the then Chief Executive. (Foreshadowing things to come, while the EFC initiated its inquiry on the premise of comments by the Auditor-General in his Annual Report of that year (2004), a parallel inquiry by a Select Committee into the same matter, the membership of which was not dominated by Government Members, was established in the Legislative Council.)

That inquiry aside, the trajectory of the EFC since 2002 has been away from an examination of public finances and towards broader policy or economic issues. Examples have been reports into consumer credit regulation, farm machine warranties and franchising; local government audit processes; tort reform; national competition policy. Where explicit government policies have managed to be made the subject of an inquiry (their defeat in a vote of the membership along party lines upon their being moved⁶) — such as with a proposed reduction in gaming machines or renewable energy policies — interim reports have been published providing a record of evidence without analysis or recommendations: final, substantive reports have never been produced.

Whatever the merits of the reports produced since 2002, and there have been interesting and at times influential reports produced, the clear trend is for issues that do not reflect on the government's economic management or the administration of public finances. Effectively, the majority position of the Committee has been to look for issues that constitute, in political terms, victimless crimes — or at least crimes where the government is not the victim or especially the accused. Consumer credit and franchising constituted good examples of this; areas where regulation was either entirely a commonwealth matter, or about to be, but where there were supplementary state responsibilities and the opportunity to air the (sometimes severe) grievances of individuals and organisations involved.

⁶ Sth Aust Liberal Party Media Release: 'Inquiry into ForestrySA forward sale rejected by Labor' www.isobelredmond.com.au/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1059/Inquiry-into-ForestrySA-forward-sale-rejected-by-Labor.aspx

Another variant of this form of inquiry was the report into local government audit which produced changes to the relevant Act and effected a new approach to council audit committees. On the face of it, this was perhaps one of the Committee's more successful inquiries of recent times. What is interesting to note is that it came despite the aforementioned exclusion of local government from the body of matters able to be considered by the Committee under the *Parliamentary Committees Act*. A prevailing opinion in the Committee that issues of financial integrity in local government, coming out of hearings involving the then Auditor General and a widespread attitude within the membership, needed to be examined caused a Terms of Reference to be constructed that if it didn't circumvent then at least fended off the provisions in the Act. Any report that begins with a 'jurisdictional clarification' and contains the gleeful line, '[l]ike all creatures of legislation, the operation and even the existence of local government is subject to change or extinguishment at the pleasure of the Parliament', is fairly evidently the product of a political calculation based on the premise that kicking local government is both desirable in and of itself and never unpopular.

The Committee's direction is not uncommon among standing committees, particularly those administered by the House of Assembly. The domination of memberships by government members with government chairs, with a government intent on managing its political profile, has caused committees to withdraw from the full reach of their capacities and instead seek out politically neutralised issues, or issues on which there is a clear government line to which they can cleave. The Opposition is also involved in this game — as it must be. Motions for inquiries are often aimed at issues currently in the political spotlight, for which Government members have little enthusiasm and the rejection of which is the subject of pre-prepared media releases, often authorised via mobile phone immediately following a vote. Areas of agreement are then marked out by their occupying a space within the remit of the Committee, which is conveniently enormous, and the distance of that issue from possible controversy.

Perhaps none of this is surprising. Committees comprise Members of Parliament, they are limbs of the Parliament, politics is inherent to their operation. But if we are trying to answer the question, 'Parliament vs the Executive: Who Wins?' the fact that most Opposition motions are met with the same initial response from the chair — 'I'll take it to Caucus (and the Minister, often) and get back to you about what they say' — I'm fairly confident my paper could have been a lot shorter with the answer no less definitive.

But I will continue, if only because there's more to say about it than the end result.

So, the Economic and Finance exists as the official public accounts-style committee in the SA Parliament: 'the powerful and influential' Economic and Finance Committee, to use the honorific provided by the media. But that honorific was earned in the years leading up to 2002 and earned largely thanks to the capacity of certain Members, often of the Opposition, to wield the powers and the image of the

Committee in the media to gain a reputation. This reputation has done much to ensure the Committee's conspicuous pitch for a low profile ever since 2002; indeed, it has not been unusual to have disputes over the Committee's agenda articulated in these terms: 'I remember what you as an Opposition did to us with this Committee when we were in government, now we're going to do it to you'. With the dynamics of the Committee thus established, its capacity to act in a manner reflecting a group of disinterested 'parliamentarians', using Senator Murray's formulation, is deeply compromised.

In SA the stakes on this game have been increased since 2007 when the Budget and Finance Select Committee of the Legislative Council — featuring a membership without a Government majority and the Opposition Finance Spokesman as chair—was appointed with a strangely familiar terms of reference, 'to monitor and scrutinise all matters relating to the State Budget and the financial administration of the State', a remit that includes 'any matter relating to past, current, proposed and future expenditure by the public sector'.⁷ After the 2010 election the Budget and Finance Select Committee was reconstituted and continues its work today: it is now, by virtue of its never publishing any discernible recommendations or final report and remaining perpetually active, a de facto standing committee. The nature of its work is to call before it senior officers and other parties connected to major government programs or government departments for questioning. In appearance it has some relation to the Senate Estimates Committees. In reality it most probably does quite a lot of good in terms of ventilating issues and areas of government financial administration not otherwise examined (by, say, the Economic and Finance Committee); but the purpose of the Committee is at least as much political as parliamentary. The Budget and Finance Committee does not produce reports or recommendations, rather it releases an annual report which, pro-forma paragraphs and membership information aside, has little but for a description of the committee's functions, a list of those called before it in the past year and a link to its webpage wherein Hansard of the various meetings is contained. There are no discernible findings produced by the Budget and Finance Committee other than the information revealed during the hearings which is then possibly reported in the media, who are always present (as opposed to the Economic and Finance Committee's often lonely proceedings), or else are certainly relayed via the chairman's Twitter account: if the Budget and Finance Committee can be said to publish its findings at all, and it probably can't, Rob Lucas's Twitter page is where it happens.

So SA effectively has two public accounts committees. Or, perhaps more correctly, it has one public accounts committee, it is just that its functions are spread across two committees, three if one includes the Statutory Authorities Review Committee. The result, however, is less than the sum of its parts. Whereas the Economic and Finance Committee has the established processes and infrastructure, the legislative

⁷ *Report on the Operations of the Budget and Finance Committee of the Legislative Council, 2009–2010*: 1–2.

mandate (albeit broadly constructed), and what one might call the ‘Parliamentary provenance’, it hasn’t the inclination to inquire into the State’s financial administration. The Budget and Finance Committee has the inclination to inquire in spades, a pretense (a motion in the Council justifying its presence and the existence of public finances as a field of inquiry) but no desire to do anything with its evidence other than promulgate it, often for tactical political advantage (or possibly see an issue spin off into a separate specific select committee with actual findings). Between them there might be a functioning public accounts committee worthy of the name. This situation brings a sharply and probably unintentionally ironic edge to the preamble of the Budget and Finance Committee’s Annual Reports where they state:

The establishment of the Budget and Finance Committee by Resolution of the Legislative Council arose from the Council’s desire to develop a process for budget and finance monitoring that suits the SA experience, with the ultimate goal being to improve the accountability of the executive arm of government to the Parliament.

Just what constitutes ‘the SA experience’ is anyone’s guess, but it is not hard to view it as a series of haphazard outbreaks of parliamentary scrutiny piggybacking on political maneuvering and making useful contributions to public policy and accountability on those occasions when accountability and a political imperative happen to coincide. Indeed this paper is an expression of the ‘SA experience’ to the extent that it reflects the particular issues confronting our Parliament and its committees. It has been an observation of mine over the last decade that the community of parliaments resemble in many ways the Galapagos Islands and their fauna. While each island contains species and environments generally comparable to every other island, there exist strange, powerful submarine currents between them that prevent constant cross-fertilisation of groups meaning similar but distinctly different strands develop on each.

So too have I tended to view the various reports and articles concerning parliamentary committees emanating from research units, universities and other parliamentary officers: interesting, worthy of consideration but somehow missing some critical insight with respect to our State’s situations. Perhaps it is ever thus, one’s problems are always more important than other peoples. But the time is fast approaching in South Australia where arguments finessing the finer points of committee output and whether it can be quantitatively or qualitatively measured will be reduced to naught alongside the more pressing issue of whether committees are producing anything at all outside a narrow political game of advantage. The issue is about trying to restore some equivalence into the Parliament/Executive relationship, something that is difficult, dynamic and uncertain in most parliamentary environments. Halligan, Miller and Power rather understate it when they say ‘[p]arties and executives continue to set parameters’ but are correct to argue that even in parliaments where the committee system has in their view been strengthened over recent decades — their example being the Commonwealth Parliament — there are entrenched difficulties around arming committees with

powers, sanctions and the breadth of autonomy that would enhance their ability to not just inquire but follow through on issues after the report has been published.⁸

I have not surveyed all the arguments around improving committee processes, such as promoting the role and power of committees so that when one is asked, as I was on my first day as a ministerial adviser, whether it was necessary to reply to a committee's request and what could they do about it, one might reply something other than 'probably' and 'not much'. Nor do I have space to critique proposals for enhanced parliamentary autonomy — including Senator Murray's proposal for parliaments to raise their own funds (a political ideal of such trenchant purity a teat pipette's worth could kill a thousand mice) — so I will deal with what occurs to me as the most effective way to enhance the committee system in the SA Parliament: abolish it and start again. If severing the arm to save the body sounds a bit drastic, it is worth considering that in many ways parts of the current committee system have been operating like a phantom limb for some years already.

While this paper has focused on the Economic and Finance Committee and its particular issues, this committee has always been a magnet for political controversy. With such a broad remit, the committee has the capacity to do almost anything, and yet is compelled to do almost nothing. That it has inhabited the latter range of its spectrum of late is barely the fault of the committee as an entity: its constitution is perfectly suited to manipulation by an executive with intent.

Perhaps a more plangent indicator of the drift of parliamentary committees in SA is the trajectory of the Public Works Committee. This committee is the only one with any real, comprehensible power (outside the Legislative Review Committee and certain semi-serious powers granted to planning and environment committees) in that its approval is required for any government project over \$4 million to proceed. Upon entering the SA Parliament in 2001, I worked as a researcher to the Public Works Committee which was, at that time, chaired by the quixotic member (and later controversial independent Speaker of the House), Peter Lewis. As Lewis had left the Liberal Party (he had voted himself into the chair's position with the support of Opposition members over the presumptive (Liberal) chair while still a Liberal member), there was no government majority on this most sensitive of committees. Nevertheless, the spirit of the membership was, by and large and with due allowances for natural political difference, 'parliamentary' with very few dissenting reports and a general preference for consensus. The importance of the committee's role — the 'responsibility', to quote the Queensland report — was a perceptible factor in this behaviour. Over the past decade, however, while the Public Works Committee has not embarked on a program of disrupting the government's capital works program, the demeanour of the committee has become more fractious, with hearings taking on a more political tenor and meetings being subject to sometimes flamboyant displays of dissent for the benefit of the media. Significantly, attempts

⁸ John Halligan, Robin Miller and John Power, *Parliament in the Twenty-first Century: Institutional Reform and Emerging Roles*, Melbourne University Press, 2007: 247.

to amend the Act to enable the increase of the threshold for referral to the Committee from \$4 million, a figure that twenty years of inflation has reduced to an inconvenience rather than a serious cost trigger, to \$11 million was undermined after agreement between the government and the opposition could not be reached and the proposal lapsed with the end of the 51st parliament (2010): it remains in limbo with an interim arrangement to sift projects currently in place.

While there has not been a series of derailed public works projects as a result of the committee's increasing truculence, there is an adversarial nature to the process that speaks more to a political purpose than a parliamentary scrutiny function (although there are connections to the extent that Oppositions often want access to more information than governments may want to provide and a feedback loop of suspicion and defensiveness leads to an intensification of emotions on both sides which inevitably affects the committee's normal functions). There is also the issue of what kinds of projects are referred to the committee — an issue that has not been restricted to this government's tenure — and the attitude the committee takes to executive decisions not to refer projects on the basis of their financial arrangements (the recent decision not to refer the \$2 billion New Royal Adelaide Hospital to the committee on the basis it is a Public Private Partnership being the latest such example⁹). Whereas in the past decisions not to refer projects for reasons with which the committee did not agree were generally met with a united response from the members, it is now less certain whether a negative government position would result in a consistent or politically split response.

I made reference earlier to an analogy between parliaments and the Galapagos Islands; recently one such island has seen a profound change in its environment in the form of the recent reforms to the committee system of the Queensland Parliament. While the nature of the reforms is, to continue the analogy, adequate to that location — the new portfolio committees address particular issues arising from Queensland's unicameral system and the perceived need for the review of proposed legislation as much as the continuing scrutiny functions of committees — the principles behind such a significant change to not just the format but the function of committees is, I think, applicable across jurisdictions. While put in terms not dissimilar to those tabled in the SA Parliament twenty years ago, the Queensland Committee System Review Committee's proposed commitment to 'giving members greater responsibility for the scrutiny of the executive' and 'giving the parliament a committee system that is strong and dedicated to the purpose of scrutiny, review and deliberation' goes to the core of what a committee system should do.

⁹ Sth Aust Liberal Party Media Release: 'Secret Labor Blocks Hospital inquiry'
<http://www.isobelredmond.com.au/Media/MediaReleases/tabid/70/articleType/ArticleView/articleId/1099/Secret-Labor-blocks-hospital-inquiry.aspx>

In his article, ‘Preferential Roles of MPs on Parliamentary Committees’, Grant Jones asserts, ‘Committees are what the members make them’.¹⁰ This is true and often reflects not altogether well on members’ internal contest between parliamentarian and politician; yet complaining about it has done little to fix it. If the committees do not function as well as they ought; if there are an inconsistent spread of committees with overlapping remits or too broad a range of issues (South Australia has two environment committees; three public accounts-related committees; a Social Development Committee and an Aboriginal Lands Committee, for example, with various inception dates); if the political and policy priorities of the executive have now effectively overridden the ‘parliamentary’ functions of the committees then they need to be redrafted in a way that prescribes their role in a much more specific way than currently exists.

To quote the Clerk of the Queensland Parliament, Neil Laurie, from his appearance before the Committee System Review Committee:

My strong issue is that I think we should start it almost with a blank page in the sense that every time the committee system has been reviewed and altered in the last 25 years, or thereabouts, we have essentially started with this system and we have tinkered with it. I think we have outgrown that. That is my view. I think that there has been a lot of good work done over the last 20 years since the committees were introduced, but the current system has really outgrown itself and does not necessarily give the parliament what I think it now needs. We need to evolve to the next stage...¹¹

The SA committee system needs to move to the next stage. There needs to be a reconsideration of the purpose and principles of a committee system and a new process implemented to give voice to those principles. From the point of view of someone who has worked in committees for a decade, in a small parliament dominated by two parties the provision of too much discretion in a committee’s remit is an invitation to manipulation and underperformance. Prescriptive roles allied to real functions that have real consequences are critical to the effectiveness of committees in this context. A public accounts committee must have a defined role with a defined outcome, something that makes it clear to the members that unwarranted disruption will reflect badly on the committee and the members; it is currently too easy to grind a committee to a halt — and even to cede many of its functions to a parallel, self-appointed rival in the other House — because the calculation is that ‘I won’t make waves down here and any waves in the Council will never be large enough to hurt us’. Pain is a motivation and pain must be built in to the system.

Committee should have functions that cover the breadth of executive powers and roles; if the Queensland model offers any solutions to a state like South Australia it

¹⁰ Grant Jones, ‘Preferential Roles of MPs on Parliamentary Committees’, *Australian Parliamentary Review*, Autumn 2008, Vol. 23(1): 80.

¹¹ Neil Laurie, *Hansard — Committee System Review Committee — Review of Parliamentary Committee System: Friday 20 August 2010*: 10.

is less in the legislative scrutiny aspect, SA being furnished with a functioning house of review, but in the deliberate spreading of committee remits across the scope of government activity. Bearing in mind the size of the Parliament and the availability of members, the committees could be more effectively spread in South Australia and deal with much more than they currently can or do. Such a model might also profit from a reconsideration of the everyone-gets-a-prize attitude of governments when it comes to handing out Ministries and other offices; a functioning committee system needs people able (and prepared) to populate it more than it needs anything else.

Allied to this must be a reconsideration of the resources committed to a committee system. Currently some standing committees have a secretariat of one person, members sit on the selection panels recruiting committee executive officers and secretaries, all committees have identical budgets that do not reflect their functions and the relative costs involved, members get allowances for being on committees ranging from ten to seventeen percent of their salaries, the chairs of two particular committees receive a white car and a driver. All of this needs to change; much of it needs to go. If what it takes to make the committee system work again is a sacrifice then we must accept it. A properly resourced, well staffed, motivated (whether by instinct or compulsion or both) committee system, furnished with effective functions and responsibilities, bolstered by the considerable powers of the parliament, engaged with the public and committed to a bipartisan (as far as possible) examination of the actions of the executive is worth starting again for.

The Parliament cannot complain about being sidelined unless it advocates for itself. It may be that effective reform of the committee system — and the parliament as a whole, in fact — is not possible until it coincides with the political cycle (a minority government receptive to the big ideas of suddenly powerful independents; a longstanding government seeking measures to refresh itself and demonstrate a capacity and commitment to reform and transparency), but that only means it should engage in the process of making itself heard in preparation for that moment's arrival. The comments of Neil Laurie provide an example of parliamentary officers advocating reform to the members. Too often stagnation results from the inability of all the players to get together, to arrive on the same page.

The members are interested whilst on the committee — indeed whilst in the committee room — but will say it only forms part of their brief and constituent issues are primary, meaning maintaining their engagement is difficult. And of course, the parties to which members are joined have their own views — especially those in government — which do not always find common cause with parliamentary reform.

Parliamentary management are more or less at the other end of the spectrum, concerned primarily with the operation of the chamber and keeping the institution on an even keel; it tends to work on a more geological time scale (members, governments and, hence, problems tend to come and go eventually) and there is an

inherently minimalist tendency to their approach (on arriving at the House of Assembly, several Clerks ago, I was told the management line was beautifully simple, you were free to approach the Clerk with any idea or request you liked and the answer was always ‘no’). Management is sensitive to the capacity of the institution to take its members along: ‘resistance’ is a concept that occupies the forefront of their minds; how much can be done before members start digging in? The corollary of that, of course, is that doing very little meets very little resistance.

Committee staff, somewhere in the middle, are forced to muddle through — obeying two masters and satisfying neither. Committee reform, especially the ad hoc incremental reform that most often occurs (and is hardly reform) and which Neil Laurie referred to as ‘tinkering’ is perhaps best represented in the Philip Larkin poem ‘The Life With the Hole in it’:

Life is an immobile, locked,
Three-handed struggle between
Your wants, the world's for you, and (worse)
The unbeatable slow machine
That brings what you'll get. Blocked,
They strain round a hollow stasis
Of havings-to, fear, faces.
Days sift down it constantly. Years.

Committees are the vital organs of the parliament; they are the speaking, moving, living faces of the legislature and potentially form a critical connection between the community and an arm of government unlike any other that exists in our system. In many ways our system of government operates like a mass, consensual hallucination: if we all believe in it then it exists. A degraded committee system is a misrepresentation of the purpose of parliament and risks the credibility of the institution, risks shattering the illusion, if it is seen to be merely a hand-puppet to the executive’s desire for the control of policy and debate. In Catholic theology despair is defined as ‘the sin by which a person gives up all hope of salvation or of the means necessary to reach heaven’,¹² the cynicism I referred to at the start of this paper is a form of despair, a capitulation to the idea that the ideals and potential of parliaments cannot be realised because the executive — out of fear, or resentment, or contempt, or a simple desire to control as many democratic processes as possible to maximise their time in government (all of which is, in its own way, unsurprising and even reasonable) — will not let it and there is nothing to be done.

Walter Bagehot said “the cure for admiring the House of Lords was to go and look at it”,¹³ it might be a wonderful thing if reform of the committee system in the SA Parliament provoked the rejoinder that the cure for cynicism about the Parliament was to go and look at it and participate. ▲

¹² Catholic Dictionary, ‘Despair’: <http://www.catholicreference.net/index.cfm>

¹³ Walter Bagehot, *The English Constitution*, 2nd edn, 1873: 108.