

Executive Control of the Legislature: Is the Legislative Assembly on a Government Leash? A Report on the ASPG Western Australian Chapter Dinner Seminar: 11 June 2009

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‘Executive Control of the Legislature: Is the Legislative Assembly on a Government Leash’? This was the topic for an interesting and entertaining ASPG seminar conducted on 11 June 2009 at Parliament House in Perth. Professor Quentin Beresford, a prominent political science author from Edith Cowan University, provided the panelists and participants with a provocative introductory address. In his view Parliament acts mainly as ‘cheer squad for the executive’. In addressing the much debated ‘Is Parliament in Decline?’ thesis Quentin Beresford reminded how Premier Sir Charles Court had ‘imposed his will’ on the Parliament and Premier Brian Burke ‘seemed to think that Parliament, and democracy itself, was putty in the hands of an artful operator’. The late Paddy O’Brien had also titled a book on Western Australian politics *The Executive State*. Beresford immediately raised the eyebrows of the significant number of parliamentarians in attendance with the assertion that the chambers should annually sit for more weeks and hours to better fulfill their legislative and accountability function. Having been a research officer for a Legislative Assembly Select Committee on Youth Affairs in the early 1990s Beresford spoke of this committee having been established to provide the government of the day with a means to contain emerging youth affairs issues rather than delivering recommendations to alleviate many of the problems facing the government in this domain.

Although Quentin Beresford would have preferred more time to suggest how Parliament could revive its relevance he did make reference to the possible greater use of ‘conscience votes’ and the introduction of citizen’s initiated referendums. The panelists did not unduly focus on these reforms but ‘put on the table’ many of their own reflections. The first panelist introduced by chairman Professor David

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Black was the recently elected, Joe Francis, the Member for Jandakot who had been quickly assigned demanding senior committee roles in the Parliament. He had become Chair of the Joint Standing Committee on Delegated Legislation and Deputy Chair of the Public Accounts Committee. Although new to the closely balanced numbers in the Legislative Assembly he had acquired a keen understanding of the workings of government and parliament as a political advisor from 1994 to 1999 in federal politics. He soon raised the political temperature of the seminar room by contending that as a Liberal Party member he was not on a 'leash', a position he contrasted with the Labor Party members which were bound by the 'pledge'. In his view the 'closer the numbers in the parliament the more honest it is', with 'the magic of democracy' leading to the recent passage in the Legislative Assembly of the anti-smoking bill. Surprisingly, when Francis mentioned that, as the political parties during the last election campaign fixed terms of government had endorsed as a desirable constitutional reform, it was opportune to consider 'the recall'. This is a procedure which had been implemented in Alberta (where it was revoked), and some States in America. In the latter constitutional framework it may have some merit where changes in the legislature do not alter the government but under 'responsible government', when the numbers are close in a lower house, its introduction could easily lead to a Member being unfairly targeted for removal, particularly when the 'recall' was inflamed by talk-back radio networks.

When Alannah MacTiernan was introduced to the forum it was understood that her contribution would be interesting and forthright. As a member widely judged to be formidable in both government and opposition, her 16 years of parliamentary experience in both Houses as a Member, Minister and Shadow Minister, helped give her observations credibility. Her key point was that 'government is hard' with a ministry only broadly able to implement its mandate cast in the context of the political party platform. Government had to balance many forces in the community and be mindful of the electoral ramifications of its decisions. Moreover, the media coverage of governance is often unfair, which was the belief of most of her colleagues and supporters during the Labor Party period of office from 2001 to 2008. She was dismissive of the 'myth' that the Liberal Party, in practice, gave its members a license to 'cross the floor'. Although a party 'gladiator' Alannah MacTiernan spoke highly of the constructive role of the parliamentary committees of which she had been a member, including being the Chair of the existing 'Opposition' controlled Standing Committee on Community Development and Justice. Often partisan political perspectives are waived in the committee deliberations. Her contention was that the impact of committee work was productive, not 'revolutionary', but 'evolutionary', nowadays supported by very professional staff.

Another panelist was Paul Andrews, a Labor Party member who, after two terms, had lost his seat at the September 2008 election. He had not been a Minister but was Chairman of the Joint Standing Committee on Delegated Legislation. On balance he believed that the parliamentary system of government works well although that does not mean that the calibre of all members of a government ministry, or for that

matter, parliamentary representatives, was outstanding. He certainly believed that the procedures of question time could be improved to make governments more accountable. This is particularly the case in estimates hearings. An important consideration, often overlooked he contended, was the 'input' into policy in the party room. Although senior members of Cabinet, particularly the Premier, still had significant influence the caucus members often posed questions and challenged Ministers behind closed doors. Unfortunately, the Labor Governments he supported had in his view been handicapped by a dysfunctional opposition which had continually changed its leaders and not developed a coherent set of policies. Ironically, as events transpired, a sudden shift in voter sentiment after Colin Barnett took over the Liberal Party leadership at the beginning of the election campaign after an early election call by Alan Carpenter, as the Premier of the day, meant that Paul Andrews was forced to pay the electoral price. The 'dysfunctional' Opposition, in 'alliance' with the National Party and Independents had won government. Perhaps he could have asserted that governments lose elections rather than oppositions win them. A significant addendum, however, was the need to consider the impact of a hostile media which Labor had continually faced.

On the Liberal Party side there were also a few casualties at the 2008 election. One of these Liberal members was Steve Thomas, thought to be the only veterinarian to have served in the Western Australian Parliament. As the fourth panelist to speak at the seminar he chose an approach that several participants at the function chose to challenge. With shades of Aristotle who had classified constitutions with reference to the 'good' or 'virtuous' in contrast to the 'wrong' or 'perverted' motives of the rulers, Steve Thomas, attempted a controversial classification of the members of the Legislative Assembly. He chose to classify the lower chamber into four equal categories of 15 members on two X and Y axes of altruism and competence. In the presentation of his classification reference was made to two former members, namely panelist Paul Andrews and the late Phillip Pandal, who were altruistic members. Unfortunately, thought Thomas, they would not be remembered as the 'good and the great' but their contribution to parliament was of great merit. Party machinations sometimes thwarted the rise of members with the highest indices to become ministers. Andrews and Pandal were in this group, as was an incumbent member of the Legislative Council, Helen Morton, who Thomas asserted had been wrongly denied ministerial rank.

In Steve Thomas's view the media provide the coverage of government and politics in terms 'of what the people want'. He possibly had in mind the regular and recent publicity given to the travel expenses of politicians. Given the 'potency of the press' it was perhaps fitting that Robert Taylor, as the chief political writer at *The West Australian*, had been invited to comment on the contributions of the panelists. Taylor sought to revert to the question, from which some of the panelists had veered, namely 'Executive Control of the Legislature: Is the Legislative Assembly on a Government Leash'? What, in this discussion, is meant by the Executive? Is it the Premier or is it Cabinet? For instance, Dr Geoff Gallop as Premier had a small group of influential advisors. Moreover what weight should be given to the party

factions and the lay party? Other agencies of government and parliament such as the Auditor-General, had to be taken into account. Where does the public service fit into the picture? This also meant consideration during the Carpenter government how changes in the political climate could be attributed to the Corruption and Crime Commission. Sometimes, too, ineffectual calls are made such as the action of Premier Carpenter calling for the closing of the parliamentary bar. Perhaps it was more appropriate to speak of 'degrees of accountability'. In this respect the newspapers do play an important, but possibly diminishing, role in setting the political agenda.

The presentation by Robert Taylor did not end the proceedings. Former Australian President of the Local Government Association and Commissioner in the early 1990s Wanneroo Local Government Inquiry, Peter Kyle, strode to the microphone, and amongst other matters stated that the dominating control of the major political parties had been overlooked. Bill Marmion, as the newly elected Liberal member for the 'blue-ribbon' seat of Nedlands questioned the statistical model of parliamentarians presented by Steve Thomas. Robert Taylor had critically gone as far as to query whether the shortcomings of the model partly explained why Thomas had failed to win re-election after one term. Marmion, though, who had lengthy experience in the Department of Premier and Cabinet during Richard Court's term as Premier, used his background in engineering and mathematics to assert that more parliamentarians should be placed in the competent and altruistic category. Ken Travers, a Labor member of the Legislative Council, reminded participants about the contribution of the upper house to the legislative and review process of the Parliament. This was not the focus of the seminar but each of the panelists praised the constructive role of the standing committees of both houses, particularly over the last decade. Before the evening concluded there was the inevitable reference to the electoral system as it helps determine the composition of the Parliament and its capacity to check the Executive. Alannah MacTiernan had mentioned Mixed Member Proportional (MPP), having in her inaugural speech in 1993 floated the idea. It was, though, a matter for a future occasion. Seminar participants, numbering some 50, were reminded that the next key event for the ASPG was its annual conference at the Tasmanian House of Assembly in September when the related role of oppositions would be debated. Papers from that conference will be published in the APR in May 2010. ▲