

Ministerial Responsibility and Parliamentary Accountability: Observations on the Role of the Leader and Ministerial Responsibility[#]

Kevin Martin^{*}

I wish to make clear from the outset that the following comments represent personal views and observations and are in no way attributable to any employer of mine, past or present.

My comments are based upon observations of the interactions of various governments and Ministers in a public sector career which has now stretched over 40 years. As such, it is not an academic treatise but rather some reflections on actual experiences primarily in the Queensland system.

I remain a fundamental supporter of parliamentary democracy for whatever the drawbacks [and there are many] it is still an infinitely better system than any alternative yet devised for enabling the needs and wants of a significant number of community members and interest groups to gain some recognition in a system which possess the flexibility, however imperfectly, to adjust to changing social, economic and political circumstances.

The Fundamental Question

It is clearly arguable that the traditional role of Parliament and the concepts of Parliamentary Accountability and Ministerial Responsibility are no longer working in anything like the idealised way they was supposed to work. Smaller more personal departments of state meant that Ministers could know what was going on and exercise personal control. Therefore it was justifiable to hold them responsible through parliament for the actions of the Department.

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^{*} Chief of Staff, Leader of the Opposition, Queensland.

What is Ministerial Responsibility

Under the idealised approach Ministerial Responsibility involves the concept of Ministers being individually responsible to Cabinet and Parliament for their own acts and for those of their Departments. Public Servants are supposed to implement Departmental policy for and on behalf of their Minister. Ministers collectively are supposedly responsible to Parliament and, if defeated on a vote of confidence, should resign. Publicly, all Ministers must support the collective decisions of the Cabinet.

Realistically, most observers would now concede that this ideal does not [and may be never has] applied in practice in any Australian jurisdiction.

The inevitable structural changes that occur as society grows ever more complex and interdependent [particularly the increase in international economic interdependence] are undermining both the independence of our parliaments to make decisions and determine policy for their respective jurisdictions.

Queensland's System of Democracy

Parliament in Queensland is different. We have a unicameral system with a history of a strong party government dominated by a succession of strong personalities as The Leader. The cult of The Leader has flourished strongly in Queensland since the 1920s at least.

Control of Executive Government and the resources it brings has meant that the government in power and The Leader have had the capacity to utilise those government resources to create a favourable image of themselves. Queensland continues to suffer from a lack of a strong intellectual tradition and a dearth of competing mass media outlets through which the prevailing government orthodoxy can be challenged.

Strong party discipline in Parliament and party loyalty allied with long term electoral dominance means that, short of actual criminality, the actions of Ministers are not able to be subject to other than cursory criticism in the Parliament. We have seen governments ruthlessly use their parliamentary numbers to protect their own members from the application of the general law. We recently witnessed a special sitting of the Queensland Parliament held to ensure that a now former Minister could not be the subject of process under the Criminal Code over allegations of lying to a Parliamentary Committee.

Ministers enter Parliament on the basis of their party endorsement not any inherent ability or training. They are appointed to their position on the basis of factional or personal loyalty to The Leader rather than any specific capacity or skill to carry out their duties.

Political Parties in all democratic systems including Australia are becoming less and less mass parties with an ever smaller percentage of the community being actively involved in Party affairs. They are increasingly dominated by arcane battles and factional contests. To receive an endorsement from a Party to stand for election in a winnable seat, the potential Parliamentarian must be able to survive these arcane battles.

Indeed Parliamentary membership of all political parties is becoming more and more the prerogative of the party apparatchik. Does the party apparatchik possess the necessary skills and experiences to make both a good Parliamentarian and potentially a good Minister? I would be bold enough to suggest that the answer to that is no.

Public administration in Queensland is carried out, not by the apolitical public servants of an ideal world, but by persons who owe their positions to the current government in power. There is a mutual benefit to both Ministers and their senior advisers and administrators in obfuscating any particular problem in order to avoid adverse community and political impacts. The failures of administration in areas such as Health, Water Infrastructure, Child Safety, etc over recent years provide continuing proof of this syndrome.

Queensland Parliament's Internal Operations

Parliament in Queensland itself, as an institution, suffers from grave defects, including the following.

Rigid party discipline ensures that issues are always addressed on a 'them and us' basis. There is little or no capacity for parliamentarians with different viewpoints to achieve a meeting of minds on issues of contention. The party system of endorsing candidates in winnable seats means that the primary characteristic to be elected is capacity to survive the arcane factional and ideological battles within party organisations. Use of government numbers to subvert Parliament's effectiveness in reviewing the actions of the government or any department. Through the use of excessive Ministerial Statements and 'Dorothy Dixers' in Question Time the majority of Parliamentary time is devoted to praising and justifying government actions with The Leader personifying the government;

Standing Orders and Speakers Ruling give Ministers freedom to refuse to address issues of concern to the community that are raised through Parliamentary proceedings. Use of government numbers on parliamentary committees means to avoid or ignore issues of concern — no matter how important they might be to the community.

A fundamental question must be confronted. In an increasingly complex modern society how effective is the 19th century institution of Parliament in supervising and

holding to account the Ministers who are theoretically responsible for both the policy and administration of the many large public sector agencies that now comprise government? How effective is the Queensland Parliament really in exercising responsible control over public administration in Queensland given the issues I have previously identified?

Given this background, it is therefore little wonder that Parliament itself is increasingly irrelevant in fulfilling the role it was traditionally supposed to fill. Party discipline means that the decisions of executive government are ruthlessly rammed through Parliament by way of legislation. No government or Minister willingly acknowledges that its legislation can in any way be improved.

Parliamentary committees, being dominated always by Government Members, operate to ensure that no adverse public image is created in relation to the actions of government or The Leader. Parliamentary question time is now, in many ways, pure theatre. Some would say, theatre of the absurd!

Opposition questions are more directed at providing a 'ten second grab' for the evening TV news than in seeking comprehensive answers to intellectually justifiable questions. Ministerial responses to Opposition questions are not subject to any specific requirements as to relevance to the issue raised and more often than not also consist merely of Ministerial diatribes against the Opposition.

The Role of Ministers, Public Servants and Advisers

The management of large scale private sector enterprises at both Board and Executive Management level is now dominated by persons who have undergone extensive training, often at a tertiary level, in the skills necessary to discharge the duties of the office they perform. These specialised skills are given recognition in the reward system for these individuals.

By way of comparison, Ministers, who are the public sector counterparts to Private Sector Directors, are not selected from a pool of people who have undergone any similar training nor are they rewarded in any similar manner.

It is often argued that Ministers have the support and assistance of highly skilled [and now amply rewarded Directors General and other senior staff] who provide the substitute for the skill and training that the Ministers lack. However Directors General are no longer independent technical experts and career public servants but rather are selected for their loyalty to The Leader and the Government of the day and are as equally concerned as their Ministers in meeting the political objectives of the government.

This relationship is now compounded by the growth in Ministerial Advisers who now form a layer between Ministers and the public service. Ministerial Advisers

often purport to speak for and on behalf of the Minister when issuing directions to the public service. They are however normally recruited not for their technical expertise but because of their membership of particular factions of the party in power. Indeed many are seeking to become Members and ultimately Ministers themselves. They operate through networks responsible back to their counterparts in the office of the Premier. They are thus another means whereby The Leader maintains knowledge of and power over what happens in Ministerial Offices and Departments.

This then raises the question as to what Ministers should actually be responsible for? Given my observations over the years about the skills, interests and capacities of a whole variety of Ministers from both sides of politics I have come to the conclusion that Ministers should only ever be held accountable for broad policy for ultimately that is why people are now elected to Parliament — to set the broad policy parameters under which our society will be governed and allowed to develop.

The Challenge Posed by ‘The Leader’

Electoral contests in Australia, whilst theoretically contests between political parties, are increasingly actually contests between ‘The Leaders’ as ideological differences narrow. This means that The Leader of the Party, whoever that person might be, plays an increasingly powerful and dominant role in controlling the political and parliamentary process, and in particular, in selecting persons who become Ministers.

Because of this leadership approach, the inevitable result is that all Ministers in their activities and actions become subject to The Leader. Ministers survive and prosper through glorification of The Leader and ensuring that nothing is done by themselves or their Department to embarrass The Leader.

This principle of domination by The Leader has now flowed through to the way in which public administration is structured. Whereas as once public administration was delivered by professional career public servants who dedicated their careers to particular departments, virtually all public sector agencies are now dominated, managed and controlled by administrators who are, in many cases, appointed directly by The Leader and are personally responsible to The Leader for their continued employment. The result is a a senior public service which is fundamentally directed at supporting, just not the party in power, but The Leader of the Party in power. When the managers of all public sector departments are appointed by, and continue in their jobs only with the continued approval of The Leader of the state, the capacity for open and effective relationships between such managers and the Ministers they supposedly serve is called into question. Ministers are often actively subverted by Senior Public Servants acting at the behest of The Leader and his adviser for political and factional purposes.

The Traditional Relationship between Ministers and their Public Servants

Traditionally public servants with the benefit of tenured employment had a relationship with their Minister where they could provide impartial advice, even if politically embarrassing, without fear of retribution or loss of job. In return for giving this loyalty to the Minister of the day the Public Servant could expect the Minister to fight for the Department to obtain the necessary budget resources to complete the Department's objectives and for the Minister to defend the Department and the Public Service against public criticism.

With all Senior [and often not so senior] Public Servants now in a personal relationship with The Leader to maintain their employment, Ministers no longer can expect the same degree of loyalty from their Department and accordingly they no longer need to display a traditional supportive role in relation to the actions of their Departments. Ministers can therefore legitimately refuse to accept any degree of personal responsibility for any misadventures by the Department that become public knowledge. Responsibility requires a two way relationship but dominance by The Leader has substantially undermined this relationship.

A New Paradigm for Public Administration?

In my view that the delivery of services by government should be devolved to agencies managed as far as possible in a manner similar to that of private sector agencies i.e. with a Board of Independent Directors who manage the agency through professional managers. This approach is similar to the approach that the United Kingdom has now evolved for the delivery of many of the services previously delivered directly by government departments.

Ministers should only be responsible for broad policy that would primarily be reflected through the legislation and regulations that would govern the operations of such agencies, be they government or private sector. The legislation would need to set the broad policy which the independent board would implement.

Naturally new mechanisms would have to be developed to oversight the operations of such agencies and ensure that they deliver services in accordance with the policies incorporated in the legislation enacted by the Parliament for which the Minister would be held accountable. Perhaps there is the option here to properly develop a Committee System in the Queensland Parliament that would give Members a proper role in oversight of service delivery rather than the extremely limited Committee system that currently operates in Queensland where Committees basically do only what the Government permits them to do.

One consequence of this approach of course would be that it will become more readily apparent that many services currently supplied directly by government can

be just as easily supplied by the private sector. Government's role can arguably then be confined to that of policy determiner, funder and regulator for those services that only government can provide.

Our society has easily adjusted to the private sector now supplying services such as airlines, roads, rail and public transport, electricity, water, building supervision and approval etc. It could just as easily adapt to the private sector supplying services in areas such as currently supplied by government for example public health, public education, and similar services that currently are regarded as essential elements of government activity at least at the state level.

Of course the adoption of any new paradigm would require pressure for what would be regarded as revolutionary change. It is however difficult to see that occurring in the Australian or Queensland context in the immediate future.

So long as economic times are fair, so long as the fundamental services currently expected from government are supplied, the tendency seems to be that the benefits of incumbency ensure the continued return of existing governments to power.

This seems to occur no matter how much concern those with an interest in the matter might raise about the internal operations of either the government or in the Parliament from which it is formed.

In all Australian jurisdictions where government has changed since World War 2 it is difficult to identify any revolutionary change in parliamentary practice or process following such change in government. Change has always been evolutionary in Australia and, it might be cynically suggested, never results in making the task of the political forces forming government more difficult.

Accordingly, whilst still awaiting the set of circumstances that will finally force our society to consider the adoption of a new paradigm for parliament and public administration, attention must be directed towards whether evolutionary change to the current practices of parliament and ministerial responsibility might be possibly achieved.

The Accountability Proposals

I have read with some interest the proposals that have been advanced for both updating the 1988 Guide to Ministerial Accountability and the further proposals advanced in relation to improving Government Accountability.

Like all moral and ethical codes [and indeed religions] they contain many proposals that it is difficult to argue against in principle. However, as religion has constantly found, when sought to be applied in the real world, arguments in support of principles of morality and ethical behaviour do not hold up very long when faced

with the urgency of satisfying immediate human needs. In the case of the political process this is particularly so when the objective of all politicians is to seek to maintain their long-term political powerbase in government.

My experiences over the years in observing the political process would lead me to suggest that many politicians will indeed support the proposals advanced and seek to maximise their political advantage by publicly supporting such principles. In practice however, their desire to maintain power, which might be threatened by the application of such principles, will ensure that principles will almost always give way to the practical necessity of retaining power.

This approach by the political process is clearly demonstrated by the way in which the objectives of Freedom of Information legislation which seeks to allow individuals and the community to gain knowledge of the internal operations of government have been subverted by the use of Cabinet Confidentiality and Commercial in Confidence provisions in all Australian jurisdictions particularly Queensland. The objective now is not to let the community know what actually happens. Rather it is to ensure that the only public version is that released is that prepared by the government's spin doctors and media consultants.

However this does not mean that those who strive for continuous improvement in our political and parliamentary processes should abandon the quest for setting the highest standard of principles under which our system should operate. Continuous sin by human being does not establish that the principles underlying religious belief are wrong. Failure by politicians to adhere to high standards of behaviour does not mean that a system based on those principles cannot work. As long as the people retain the right to throw out one set of politicians and replace them hopefully with a better set the opportunity for improvement in Parliament, Public Administration and the exercise of Ministerial Responsibility remains open.

The setting of realistic standards for Ministerial Accountability and Responsibility will provide a touchstone against which the community can judge the behaviour of our political leaders and determine whether they indeed meet the standards that will justify their re-election. Ultimately it is the collective judgement of the people exercised through the ballot box that will determine whether the behaviour of the Ministers and the Government of which they form a part will justify their re-election or whether they will be replaced by an alternative set of politicians. People can then judge whether electoral change will result in an improvement in the practice of Public Accountability and Ministerial Responsibility by the alternative.

