

“What’s the Matter with Parliament?”

The “Order of Australia Association-Australian National University Lecture”

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Introduction

Thank you very much for inviting me to give this lecture. I would like to acknowledge the Ngunnawal people on whose land we are meeting and pay my respects to Aboriginal elders past and present. Incidentally, since September 30 last year, at the start of each sitting day before the usual prayers, the Speaker of the House of Representatives reads the following words:

I acknowledge the Ngunnawal and Ngambri peoples who are the traditional custodians of the Canberra area and pay respect to the elders past and present of all Australia’s Indigenous peoples

My title reflects not an emphatically negative question in a tone of voice like “What the heck is the matter with Parliament?” but a quieter reflection on what I observe to be the lingering commonly-held view that some improvement is in order. The question can be answered in a fairly narrow, technical way or in a more general way and I’ll try to do some of both.

I don’t look back to a Golden Age of Parliament, because my studies of previous eras suggest lower public expectations of Parliament than rather than higher levels of performance (however that might be measured). Some of the contemporary criticisms are unfair or unrealistic of this very human institution. I also think that in many ways Parliament has improved as a democratic institution over the past fifty years. Finally, I believe that Parliament is an honorable vocation and the whole community is in debt to the courageous souls who stand up to be counted by entering Parliament. Parliamentarians work hard, for adequate but not outstanding remuneration, and their job, including sitting in Canberra, is a threat to their mental health and normal family life. Often personal appreciation of individual local MPs is much higher than that which is reported in general assessments.

It is a good time to look at parliament because we are experiencing a new approach to it under minority government. We have what’s called a hung Parliament. At the insistence of Independent MPs, led by Rob Oakeshott, the Member for Lyne, and Tony Windsor, the Member for New England, parliament was meant to be revamped last year to make it more open and democratic and to shift the balance towards

all MPs and away from the Executive. This reform, enshrined in a Memorandum called “Agreement for a Better Parliament” was welcomed by members of all parties, including even the Opposition. The core values were spelled out as follows:

The principles behind this document are twofold; to confirm 150 local MPs (and by extension their communities) as the foundation blocks of our Australian system of democracy, and increasing the authority of the Parliament in its relationship with the Executive.

For these improvements to work, it will take a commitment by all MP’s to respect the cultural change that these changes bring. While the community demands a ‘feisty’ and ‘testing’ parliamentary floor, there will be a need for recognition by all to allow more MP’s to be involved in various roles and debates, to allow more community issues to be tested through private members voting, and to allow a Speaker (in particular) to rule with a firm hand as debate tests the boundaries of the Standing Orders on the floor.

The Parliamentary Library has just this month issued a report that tracks these reforms in a Background Note called “The hung Commonwealth Parliament: the first year”. The record is patchy. Reform is slow, but some progress has been made towards developments such as a Parliamentary Budget Office and a Parliamentary Integrity Commissioner. The Independents have increased their own share of parliamentary time, including through increased numbers of private members bills. Question time balance between questions and answers is edging forward too.

These potential reforms need to be put in a broader framework if their contribution is to be understood. There are two battles going on in Parliament: one between the major parties, disguised as a contest between Government and Opposition, while the other is between the major parties together and Independents and minor party MPs. Some reforms are an attempt to increase the participation and authority of the whole parliament vis-à-vis the Executive Government, whether they are Independents, members of minor parties, the Opposition and government backbenchers. Others, such as reforms to Question Time, are ones which may benefit the Opposition shadow ministers in particular.

What does Parliament do?

No discussion of Parliament should proceed without an understanding of what Parliament actually does or should do. There is widespread ignorance and misunderstanding about this in the general community; just as there is about most other political and constitutional questions. Even universities offer few courses specifically on parliament, preferring other topics supposedly of greater interest or importance, such as executive government, the public service, political parties and elections.

Many people actually confuse or fail to make a distinction between Parliament and Government and treat them as if they were one and the same thing. There are some good reasons for this as in Australia the main political players are featured both in the Executive and Parliament. Unlike in a presidential system such as the USA where the President and Congress are separate, in the Westminster parliamentary system we use in Australia the government is drawn from the parliament. In fact,

government dominates the parliament and the parliamentary chamber acts as a stage for a theatrical battle between government and opposition in which the government invariably triumphs.

Furthermore, some contemporary debates, such as the Bill of Rights debates, have encouraged this confusion by presenting an idealistic view of what Parliament actually can do (in this case the argument that Parliament is a defender of Rights, whereas Parliament itself is in practice subject to the Executive).

There is some research done on Parliament, and ANU has had a Parliamentary Studies Centre, but even in the recent sympathetic report by the ANU-based Democratic Audit of Australia project, called *Australia: the State of Democracy, Parliament (2009)*, Parliament, which it describes as “the defining institution of representative democracy”, tends to get lost in the thickets of other aspects of our political system. Nevertheless, the Democratic Audit of Australia noted several worrying limitations to the contribution of Parliament to representative democracy: the general lack of confidence in politicians and parliament; how very low down the scale politicians are in survey rankings of the ethics and honesty of particular professions; and the relatively small size of Parliament, and therefore the heavy load that each member of the House of Representatives bears.

Let’s now go back to the beginning. The Australian Parliament is a most distinctive, almost unique, Parliament comprising (the Monarch), the House of Representatives and the Senate. It is not particularly large (just 226 members in all), which limits the talent pool for jobs like ministers. Furthermore it is a bicameral Parliament and the Senate is the most powerful upper house in the Westminster world.

Parliament has five disparate functions. As I list them you may like to think about which of them is more important for you. Most have their detractors. Some are often overlooked.

First, it debates bills and passes and/or rejects the laws that govern us and then recommends them to the Governor-General in Council for Royal Assent. These laws are invariably presented to the Parliament by the Government. The ANU-based Australian Election Study survey in 2010 reported that 39% thought that it was better when government controls both Houses. By implication, therefore, 39% like it when Government legislation is largely controlled by the Government. Detractors condemn Executive-driven law-making as reducing Parliament to a mechanical role which is often described as a so-called sausage factory.

Secondly, it should hold the government of the day, the Executive, to account. It can withdraw its confidence in the Government if it wishes to bring it down. In 2010 the AES reported that 40%, down from 51% in 2007, thought it was better when the government does not control the Senate. This aspect of Parliament infuriates Prime Ministers, including Paul Keating, who famously called a recalcitrant Senate “unrepresentative swill”, and John Howard who flirted with constitutional change to reduce the Senate’s powers.

Thirdly, it should be a forum and/or assembly for intelligent, open-minded debate and investigation of issues and policies. Some advocates would like to extend this role into wider community forums such as

citizen's parliaments. For its detractors this role is nothing more than an unproductive and self-indulgent talk-fest.

Fourthly, it should be a representative body that not only represents the views of Australians in speeches and questions by MPs, but also reflects the demographic diversity of the nation in its composition to a reasonable extent.

Fifthly, it is the pool from which current government ministers and future political leaders are drawn, and it is the finishing-school environment in which they are tested. Kevin Rudd and Julia Gillard each spent about a decade in Parliament before becoming Prime Minister and John Howard spent more than two decades before he did.

In carrying out all of these functions it must be remembered that Parliament is not just a book club or a debating society but as hard-nosed a forum as the board or share-holders meeting of any large corporation. I am not naïve about this. Parliament, as last year's reformers readily acknowledged should be 'fiesty'.

How has Parliament changed or improved over the past fifty years?

First, it has grown in size (from 108 to 226 members), sophistication (a big new building in 1988 and lots of electronic gadgetry) and resources, including more staff support both for individual MPs and the collective parliamentary effort.

Secondly, it now incorporates a wider representation of party political views following the adoption of proportional representation in the Senate to complement preferential voting in single-member electorates in House of Representatives elections.

Thirdly, it is now more socially representative in at least one crucial aspect: the much greater representation of women in its ranks. The gender balance is now roughly two-thirds men to one-third women. This is not enough but much better.

Fourthly, the growth of the committee system has given it greater investigative and deliberative capacities with which to enlighten public debate, even if many enquiries are neglected when they report or staged for party political reasons to frustrate the Government.

Fifthly, it has become more open and more committed to its public education function, through the admirable efforts of the Parliamentary Education Office and successive Clerks of both the House of Representatives and the Senate.

My worries about Parliament

I worry:

First, I worry about the poor reputation of parliament and parliamentarians. This has been in evidence again during the republic-monarchy debate which accompanied the Queen's visit. Letter writers have referred again and again to the so-called 'odium' surrounding politicians. While the 2010 AES survey

from ANU shows, rather contradictorily, that Australians are satisfied with and inclined to celebrate Australian democracy (72% in 2010 down from 86% in 2007), they also think MPs look after themselves first and foremost (63% in 2010), and they don't trust them to work for the common good (only 37% trust). All of this is unhealthy and even dangerous.

Secondly, I worry about the conduct of parliamentarians, especially within the chamber, driven by an entrenched culture of extreme competitiveness, sometimes called "adversarialism". Parliament is a bear pit in which the ends are used to justify the means. The ends are the destruction of the other side, just like in any professional football match. This is achieved by extravagant rhetoric, exaggeration, and, where necessary, personal attacks. Both sides are guilty.

I also despair about those MPs, admittedly a small minority, who behave like court-jesters or, even worse, rip off the system by helping themselves to self-interested perks and rorts.

Thirdly, I worry about the representativeness of parliament, given that most parliamentarians, a) represent a white-collar middle-class demographic to the exclusion of a blue-collar demographic, and b) represent the dwindling mass membership of the two/three major political parties. The major parties still dominate representation in Parliament. Too many MPs come from a background as staffers (ironically made possible by the increased resources now given to parliamentarians). While this means that the political class as a whole has become more professional we have lost the benefits of a more amateur approach in which politics, broadly defined, was not a life-time career.

Labor has a particularly narrow base because of an additional factor, affiliated unions. That is another lecture, but it is a factor that deserves consideration.

Too few MPs are Indigenous or from a recent non-English-Speaking background, though we are seeing slow improvement in each category. The first Indigenous member of the House of Representatives, Ken Wyatt, was only elected at last year's election.

Fourthly, I worry about the relative weakness of parliament in the face of an ever-stronger Executive Government. The Executive has the numbers, control of the agenda, and also control of information, especially that held by government departments. Minority government does try to restore some balance in the face of this problem.

Fifthly, I worry that too many young Australians under thirty (about a quarter) do not enroll to vote in elections for Parliament, despite the best efforts of the Australian Electoral Commission. There are many reasons for this disturbing pattern, but the poor reputation of Parliament, connected to the tough way Australian politics is played (as Tony Abbott saw fit to tell the Queen during her visit), is probably one of them.

The Impact of Social Change on Parliament

Parliament is an institution that cannot escape the impact of social change. Some of the remedies to weaknesses that I see are, therefore, out of the hands of Parliament itself. It needs assistance from the whole community if change is to be forthcoming.

First, the mass media contributes significantly to the loss of dignity being experienced by parliamentary leaders and sometimes drags public debate into the gutter. We have seen recent examples of utter disrespect for our political leaders. In turn, this encourages ever-angrier public debate and criticism of Parliament. Just today, in Eureka Street magazine, Canberra author Tony Kevin calls for more civility in Parliament and makes the point that the “media encourage head-bashing politics, because civil politics is boring”.

Secondly, the community has had for some time a growing attraction to the sort of participatory/direct democracy found in many new social movements and to forms of involvement in politics, like the social media group, GetUp!, that are more immediate, direct and hands on. This is such a challenge to representative democracy that it may ultimately be beyond Parliament’s ability to respond.

Thirdly, following on from this, social changes in communities, work patterns and family life are undermining political party membership, which continues to fall. While the major political parties maintain their iron grip on representation in Parliament there is little that parliament itself can do. That is up to the voters and to the parties themselves.

Fourthly, unruly disrespectful behavior is not restricted to Parliament. Anything goes now in social discourse. So too does unethical behavior whether at the big corporate or small business level. Government programs are hijacked and rorted with impunity as a matter of course, including by individuals.

Fifthly, as citizens we all fall into the trap of wanting our side to win at all costs and “whatever it takes” (former Senator Graham Richardson’s phrase). We are all guilty of regularly excusing those on our side of politics for their misdemeanors and offenses against Parliament.

Some Remedies

Many of the possible remedies were discussed last year in the context of minority government. I support the general drift of the “Agreement for a Better Parliament”, though I fear for its long-term future as it has been produced by a most unlikely result from the 2010 federal election. That result is unlikely to be reproduced.

Any reform for the better would have to be the result of both improvements to processes and procedures and cultural change among the representatives. I would suggest the following.

First, we should press on with the institutional reforms, such as a more Independent Speaker, a better quality Question Time and more opportunities for backbenchers and cross-benchers, in order to make parliamentary processes more even-handed and transparent.

Secondly, we should encourage relaxation of party discipline in a general sense. This would need to be encouraged by the party organizations and factions that run the big political parties and supported by the party leaders who should lead by example.

Thirdly, more specifically, we should support greater use of conscience votes where free votes are allowed on a greater number of issues and not restricted to a limited number of socio-moral issues like euthanasia or embryonic stem cell research. Parliamentarians often rise to the occasion as independent thinkers on such occasions.

However, I am a realist. I recognize, for instance, as my two ANU colleagues, John Uhr and John Wanna, have written, that, while some progress can and should be made

It would be unrealistic to expect parliament to replace its long-standing adversarial practices with consensual norms of inter-party cooperation on policy matters. Government continues to see parliament as a 'risk' to its reputation and security of office.

Governments will not easily cooperate in making their own lives more difficult.

Conclusion

We need to be clear just what roles we want Parliament to perform and in what priority. Yet as a community we are clearly deeply divided. Unfortunately, some of the worthwhile functions of parliament are contradictory if taken to their logical conclusion. In particular, do we want a Parliament that is a real threat to the Government of the day or one that makes a much more modest contribution to the making of those legislative sausages? We can't easily have it all.

Two cheers for parliament. But it is a limited, old-fashioned institution, a creature of its time that may need major, creative re-jigging in the longer term. The more its operations can get out into the community the better and the more interactive it can be the better. Society has moved on in ways that challenge its place in the wider scheme of things and in its day-to-day operations. Some potential reforms are just tinkering at the edges.

Ultimately we get the Parliament that we deserve, in the sense that it draws its norms of behavior from society at large. That means us. Two-party politics permeates and defines Australian society. Parliament is unlikely to be more civil than the society from which it is drawn. When we enter the ballot-box next time parliamentary reform is not likely to be a high priority for any of us. That's a pity as there is room for improvement.

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