

## How Parliament Works in Practice

Mr John Black, Dr Michael Macklin and Mr Chris Puplick

Former Senators

Mr BLACK - Thank you for coming along this afternoon. There are more people here than I expected to see. I can only assume that they want to talk to Michael Macklin about some of the problems within one of our parties which is contributing wittingly or unwittingly to our work. I also notice that that chaos is being replicated on a somewhat grander scale overseas and that in six to nine months we may have Boris Yeltsin here to give us a few hints on how to cope with unruly constituent bodies; how to fill a constitutional void; how leaders should deal with an economy that is in a shambles with an inefficient manufacturing industry and overvalued currency, a chronic overseas debt, massive unemployment and underemployment; and a leader who has tried for far too long to compromise, lead and follow at the same time.

Essentially, what we are dealing with in the work that we are attempting is one which is stripped away from party politics. That really is surprisingly simple for us to do. It is far more relaxing for a start. But when we had cast off the party and the factional armour that we wore in the chamber, we found we had a lot more in common with each other than we did with the people cheering from the sidelines, who were a bit like fans at a football match. If you walked off with your nose unbroken, they were always a little bit disappointed that you were not trying hard enough.

What we are endeavouring to do now is analyse some of the problems confronting Australians as individuals, the problems they have in dealing with a political system. It is a system which bears very little resemblance to the system we all read about at school. I think we probably all use the same sorts of text books. However, we are working on that side of the problem, as I said.

We are dealing with the difficulties that have arisen because of the aggregation of power by the Federal Executive wing in the Australian system at the expense of the States and the legislature. We are also dealing with the extent to which the individual's contribution has been reduced significantly by new technology on the one hand and by the increase of sophistication and internationalisation of debate on the other.

We worry that individuals are unable to continue to have the sorts of inputs that they used to have into the political system as far as preselection procedures are concerned. They are increasingly being captivated by collegiate systems, by executive selections and 24-hour specials, such as we saw with the Democrats yesterday, and the individual is being denied a say. There are moves to remedy that but, hitherto, they have been rejected resoundingly by power brokers of all major parties.

I turn next to election campaigns and the role of public funding and massive individual donations. Without going into any recent allegations about the source of those donations and what is offered in exchange, I find, coming from Queensland,

that it is best not to talk about political corruption, because politicians are all before the court, out on bail or about to leave on a work release scheme. So you are not really safe legally or healthwise. Suffice it to say, the system has been corrupted to the extent that the individual now not only has no say in the selection of candidates, even if he or she is a member of a party, but also very little say in the way the campaign is conducted. The money those individuals have raised is largely irrelevant because it is so small compared with public funding and compared with the sorts of donations that we have all read about recently.

As far as policy formulation is concerned, basically the timeframe is concentrated to the extent that party members can do little more than give direction about general philosophy. When it comes down to the nitty-gritty decisions about whether we should flog off the Commonwealth Bank to rescue our comrades in Victoria, who are in imminent danger of disappearing down the Port Phillip Bay plug hole, that sort of thing is basically worthless. It is inflexible as far as the day-to-day problems and exigencies of executive government are concerned.

We deal also with the way in which the factions have operated as the thought police, not only of the party, but also of the Parliament, and the extent to which they have arisen. I will leave that for my two colleagues to deal with. Suffice it to say that the concerns we have had, I think, are real. If we wish to do anything about them, the idea of taking an apolitical view so we can at least agree on the analysis is a very useful starting point.

My conclusion before I have written it - politicians always make a conclusion and then write a report to substantiate it; it is a habit I got into - is that the system we have does not work and that we elect people to both lead and represent us at the same time. Those roles are essentially different. As I said earlier, a little tongue-in-cheek, Gorbachev tried to marry those two roles and he has been unsuccessful. Sometimes you simply have to forgo one role at the expense of the other.

It would be preferable for our political system to have one side representing the people and one side seeking to provide leadership; the first side following public opinion and the second side leading public opinion. At least if they were all honest about that and those two roles were separated, I think you would have a better quality of government. You would probably do a lot of lobbyists out of jobs because representatives would in fact be doing the job that they were elected to do, that is, represent people at the decision making level of the legislature and, as part and parcel of that function, provide a fair degree of influence for ordinary Australians in the conduct of the Executive. At the end of the day the Executive always needs money and the Parliament is the body that has to provide that.

Having covered the general principles of the work that we are dealing with and alluded to some of the specific problems in so far as the parties are concerned, I will just pass over to my two colleagues on my left, ironically enough, to deal with their components.

Mr PUBLISH - I have been on not only Mr Black's left but just about everybody else's left at some stage during the course of my political career. This afternoon, I intend to focus on just how genuinely difficult it is to be in opposition. In particular, I will focus on how difficult it is from a structural and a resource point of view for an opposition - even one which is talented and hungry for office - to actually play within the confines of the institutional and the structural rules under which both the Parliament and the political system operate at the moment.

There is a great deal written about Cabinet, Cabinet committees, Parliament, parliamentary committees and there is even a certain amount written about opposition and the process of being in opposition. There is almost nothing written by way of a study of what makes an effective Opposition leader; what are the talents required for a Leader of the Opposition; and how the alleged engine-room of opposition, the shadow Ministry, or shadow Cabinet, actually operates. If anybody were looking for an area which has not been explored in terms of Australian political science I put that forward as one which would actually be worthy of a great deal of study and attention.

The first and most important constraint under which an Opposition shadow Cabinet, shadow Ministry, operates is that in almost no instance is it the master of the question of timing. Consider the sort of problem which arises for an Opposition dealing with a complicated piece of legislation introduced one Tuesday in the House of Representatives. It is perhaps scheduled for debate either that same week or the following week, which itself is the result of some months - indeed some years - of work by a Public Service, external advisers, the Treasury Department, the Finance Department, the Attorney-General's Department, the Office of the Parliamentary Counsel, eventually coming forward in a piece of legislation, which may run to 10 or 20 pages, in terms of a tax Bill, or a copyright Bill, 50 or 60 pages. One then says to one's parliamentary opponents, 'This is a matter for debate within five or seven working days. It is now up to you to determine a policy position, to consult your own party, to consult interest lobby groups outside, to draw up amendments and, in fact, put together the opposition's alternative on that particular piece of legislation'.

The physical constraints, the institutional constraints, which arise under those circumstances are enormous. You can understand, for example, when one is faced, as we usually were in the shadow Cabinet, with legislation introduced, particularly in a post-Budget situation, everybody goes away - shadow Ministers usually with a staff consisting of two, if they are lucky three people - and is required to put together a response, to make sure that that response has the support of the back bench committee and the party room, bearing in mind that you are only going to have one meeting a week of those parts of your political system, to consult outside groups, and prepare a written response.

One then gets that written response to a small group of people based within party secretariats, who constitute the shadow Cabinet Secretariat, who then have to arrange for the reproduction and distribution of that material, so that my normal routine as a member of the shadow Cabinet would be for a shadow Cabinet meeting to take place on a Monday morning. This means being in Canberra on a Sunday night. The air express delivery system would arrive at my home on a Saturday morning with anything up to 150 sheets of paper in terms of shadow Cabinet submissions to be read, commented upon, responded to and debated the following Monday morning.

All of that, of course, is to be done without any departmental assistance, without any access to the sort of allegedly accurate costing of the Departments of Treasury and Finance, without any access to the resources of the Attorney-General's Department - in terms of what you might want to take as a legal point on any of these matters - and then to think about the amendments, to agree to the amendments in principle, and then probably have less than 12 hours to get those amendments drawn up in a fashion which allows them to be actually introduced for debate. Then, given all of that, you will perhaps find yourself in a situation in the House of Representatives in which the Bill, in any case, is declared urgent and subject to the guillotine.

I now go to the resources side in terms of what staff are available, for example, to persons such as myself, whose shadow portfolios at one stage included environment, heritage and arts, managing Opposition business in the Senate and also being the Party spokesman in the Senate for immigration, health, administrative services, the Electoral Act and housing, bearing in mind that, at least in the Senate, there is some capacity and, indeed, an increasing capacity for amendments to be introduced and passed, and indeed for the processes of time to be put back into the system.

So to this extent the Senate, institutionally, in fact, is not just the Parliament's more thoughtful and, in some respects, more important chamber; it is fundamentally the Opposition's last hope of having any substantial impact upon the parliamentary system. As such, the relationship between the Opposition - whoever happens to be in opposition - and the Senate will be one of continuing development of those trends which go back to the days of Lionel Murphy in terms of making government somewhat more accountable.

I want to say something very briefly about the difficulties and the position of the Leader of the Opposition. This I confine purely to talking about the Liberal Party. The Leader of the Opposition possesses one great tool which is not really in the gift of the Leader of the Labor Party; that is, the Leader of the Opposition has, under the Liberal Party system, the unfettered right to pick the members of his shadow Ministry. The only persons who are, in some respects, forced upon him are his Deputy Leader in the House of Representatives and his Leader and Deputy Leader in the Senate. Not even that, however, is an immutable rule, particularly when one comes to coalition arrangements. You can ask Senator Boswell his views on that at some later stage.

The leader, however, has the juggling act to do: how many from the Senate; how many from the House of Representatives; and how many from each State. He has to balance the shades of opinion - we do not have factions in the Liberal Party - which exist within his political organisation. He has to decide whether to have a number of women in the shadow Ministry, whether to have people who have previously served in administrations or whether to experiment with entirely new people. He has, therefore, that power of patronage, which he has to exercise with some care. As Mr Gorbachev found, sometimes picking one's closest colleagues is, in fact, a very difficult art to perfect.

Leaders of the Opposition then have to make some decisions about the extent to which they are going to be, as John has said, leaders or followers. I do not propose to go into detail about that at this stage, simply to say that one can see in the Leaders of the Opposition under whom I served - John Howard, Andrew Peacock and John Hewson - quite different styles in terms of leadership, in terms of collegiality and in terms of where they sat around the shadow Cabinet table. Do you sit at the head and lead the debate? Do you sit in the middle and speak last or, indeed, not put your point of view forward at all if there is a clear majority of your colleagues heading in one direction on an issue which you regard as not central to your particular interests or your particular policy prescriptions? Or do you take the leadership position and then find that very often, particularly when policies are controversial, they are supported on the basis of an inverted pyramid?

The support is strongest at the top and the further down you go, the weaker it becomes until you eventually come to the rank and file party membership at which there is no support whatsoever. In fact, you have to spend time educating down the process that certain things are basically good and you can still win elections while believing in them. Again, that is a question of which direction you think power and authority, influence and policy-making ought to flow.

The final point is that Oppositions have to choose one of two roles. It is very difficult sometimes to make this choice. When you are in opposition, one of the things that will always happen is that you will be potentially set up by the bureaucracy. People who have lost in Cabinet will make sure that the appropriate shadow Ministers know that they lost in Cabinet. They will let you know the arguments they put forward which were rejected. You have to make sure that if you buy any of those, you also try to find out why they were rejected, instead of simply going in there and finding yourself potentially being used as a cat's paw for those within the bureaucracy who have lost the debate and are determined to have a second run at the argument by remounting it, particularly in the Senate or in Senate Estimates committees.

I could never have been an effective member of Senate Estimates committees, if certain departmental officers had not told me which questions to ask of other departments or, indeed, if certain Treasury officers had not told me which pages to look on to see why the figures did not match up in different departmental documents. You have to be very careful about the extent to which you allow yourself to be used in this respect.

These are the key problems for an Opposition: do you bow down to the demands of the interest group who will always come to you with a take it or leave it, reject this outright, never offer any compromises attitude or do you decide - and this is the most difficult of all tests - to correct or try to correct what you think is bad government legislation? Do you try to correct it? Do you try to amend it? Do you think it is so bad that you should let it pass and let the Government wear the consequences of it? To put it in a nutshell, the key dilemma for an Opposition - no matter how it is led, how it is resourced or how it operates - is whether, in fact, it should perceive itself as an Opposition or as a government in exile. As soon as I work out precisely what the answer to that question is, I will patent it.

Dr MACKLIN - I should make clear at the very beginning that there is a very good line from the *Goon Show* that covers what I am about to say. Spike Milligan used to always open up his contribution by saying, 'Good morning. Of course, I speak entirely from memory'. What I am about to say about the Australian Democrats, I think, can fall in line with the same type of exercise.

I want to look at the quaint notion that we have of democracy in Australia - that somehow or other the Parliament actually represents a democratic operation. I wanted to take the legislative process as probably the best example. I am dealing, admittedly, with a very small number of Bills. After all, no-one is terribly interested in the vast bulk of Bills. It is a bit difficult to get too excited about the Laying Chicken Levy Bill or the Pig Slaughter Levy Bill, but I have noticed some ex-colleagues getting themselves whipped into a real old fervour on Bills like those.

By and large, the Bills go through as examples or excuses for people to make speeches. I am looking at a small group of Bills. They probably come generally as a political initiative which is then flicked to the bureaucracy which spends a vast amount of time, energy and effort writing up legislation. Some of that is of an absolutely enormous kind. For example, the corporations legislation package was the largest ever introduced into the Australian Parliament. It landed on my desk one morning and had I do not know how many volumes. The phone rang; it was a journalist on the other end who said, 'The corporations legislation was introduced today', and I said, 'Yes, I have it sitting on my desk'. He said, 'What is the Democrats attitude on it?'. I said, 'I have a very straightforward attitude; I am going to read it.

What are you going to do?', and I slammed down the phone. I think that is a reasonable example of what the fourth estate actually believes democracy is about.

After the legislation comes into the House of Representatives, who actually gets to read it? The Minister is far too busy to read the legislation. Somebody in his office has read the legislation. Ministers who are on top of it have a reasonable working knowledge of the legislation; others have none at all. Then again, in the House of Representatives it is not really necessary to have read the legislation, even if one is speaking for or against it. There are positions, as Chris has just pointed out, where someone has done the leg work; someone has put up the proposition and if you are wheeled in and happen to get a guernsey that day, then that is the position to take.

The input so far from the elected representatives of the people is roughly on a standard of most of the decrees being issued in the Soviet Union at the moment - they do not get a look in. After some period of time, it then finds its way to the Senate where, in fact, some people actually do read it. You would be surprised to know that it would be lucky if six to 10 of the 76 senators read a Bill - and then only on a very good day and with a very short Bill.

Once a Bill goes over about five or six pages, the number of avid readers tends to drop off exponentially. When it gets to a volume of reasonable size, hanging in there by the skin of their teeth are the Opposition spokesperson, the Democrats spokesperson and, hopefully, the adviser to the Minister in the Senate, who has absolutely no idea what the Bill is about anyhow because he is not dealing with that area. As an ex-Finance Minister used to say quite candidly to the Senate, 'I have not the faintest idea what is in it, but anyhow it is our policy so you blasted well like it'. Some of those types of candid comments are very nice to go back in the *Hansard* to read because they do illustrate the actual situation.

The grand total of excursions into legislation by the elected representatives of the people - 148 in the House of Representatives and 76 in the Senate - will probably on a good day on a small Bill reach the staggering number of about 10. Most of those do not have much of a view on the Bill because although they have read it, they did not understand it. That reduces the number even further. It would be lucky if the number of people who, as representatives of the people, actually read it and understood were two.

What is the whole exercise of parliamentary democracy about? Would it not be better to short-circuit all of that, go straight from the bureaucracy into legislation and then leave it at that? Chris and I were actually involved in an exercise where the bureaucracy was doing precisely that for a long period of time in Australia by, in fact, not getting into law many Bills that had been passed by Parliament. On one occasion, we finally got a bureaucrat to tell us why the legislation was not operational. A bureaucrat, who has since been moved, I understand, said in response to why one piece of legislation had not become law was that it was not considered appropriate by the bureaucracy. That candid comment probably had that person shifted very quickly. But it was a proper comment in a sense.

What we are dealing with, I think - as John and Chris have already suggested in their comments - is how we get the parliamentary system operational again in an effective and useful way so that when people go out there to vote there is a connection between the electorate and the legislation. Admittedly, our system probably operates better than most and what, in fact, one may be looking for is an exercise which is not attainable - well, fine - but I believe that the system can operate better than it is currently.

Here are some interesting statistics: the Australian Parliament meets about half as long as the Congress or the House of Commons in England or even the Canadian Parliament does. It passes, roughly, about twice the number of laws. That means, of course, that Australian politicians are four times as efficient as those in the United States - which is something to take home and feel warm about - or is it that they are four times less efficient?

The normal way of measuring the level of productivity is to consider the amount of stuff shoved through in a certain time, but that may not be the way we ought to judge a parliamentary exercise. Quite possibly, it may be that the education of politics in Australia ought to be directed at the education of the electorate, because while it is pretty simple to hold up to ridicule the parliamentary process and politicians, the responsibility for that lies with the electorate, because that is precisely what it wants and the type of support it provides to parliamentarians and politicians.

I have already illustrated this in terms of the media's attitude that one can form an immediate opinion about the largest piece of legislation ever to be introduced into Australia - the corporations law, no less, which governs the whole basis of industry and commerce in the country. The media wanted an immediate response from me when that piece of legislation hit my desk. If that is not a denial of the notion of how we ought to operate in a democracy, I do not know what is. But what type of thing did the electorate actually expect? It expects, of course, that members will be in their electorates and not wasting their time in Parliament and, if they are not there, the electorate gets very upset.

You may remember the controversy, some time ago, when it was discovered that some members of parliament had moved their families to Canberra. If you are expecting people to operate as people and you say that their family will live 4,000 miles away and they will not see their kids, I think question marks have to be put over that. The amount of time and resources that one wants to devote to the Parliament, of course, are infinitesimal in terms of the amount of time and energy that is created and devoted to the bureaucracy. Chris has already outlined fairly effectively the vast imbalance in that area and that has never been and will not be addressed because it is not in the interests of the executive side of government to make sure that parliaments are strong and effective.

All of those remedies do not, in fact, lie in the hands of the Parliament; they actually lie in the hands of the electorate. If the electorate actually wants a fully functioning, democratic, parliamentary government, it is going to have to pay for it. If it does not want to pay for it, then I suggest that it is a very good idea not to whinge about it and just put up with three or four people occasionally reading a bit of legislation that they pass.

Mr EVANS - Being very modest people, our speakers have left plenty of time for questions. I ask each of our speakers to give some thought to the question that if they were in the position of Boris Yeltsin and were reforming the legislature and society by decree, what would their first reforming decree be?

Mr BLACK - The first decree would have to be to give yourself limited tenure.

Mr EVANS - What would your next reforming decree be?

Mr BLACK - It is only fair that I share this answer with my colleagues. If you give the people a chance, they clearly want strong leadership, and they are clearly

supporting people such as Boris Yeltsin in that regard. They also want to have a say in how their lives are run.

Have a look around Australia. The executive wing of government does not control parliaments in any of the bicameral systems in Australia - at the Federal or State level. The only State where we managed to abolish the second House was Queensland, and we had some pretty rotten and corrupt governments for about 30 to 40 years afterwards. Queensland has reinstated a form of an upper House with the CJC and EARC. Those bodies basically comprise public servants doing the jobs that politicians should be doing - telling the Government what to do and correcting it when it is wrong. Clearly, Boris Yeltsin needs to set up that sort of structure. All I can do is wish him luck.

Mr PUPPICK - From a purely legislative point of view, in terms of institutional changes, I would do at least two things fairly promptly. First, I would actually provide a limitation on the time between the introduction and the formal debate of a piece of legislation. That is actually within the hands of the Parliament to do, if it wishes to.

Structurally, the second thing I would do - having thought about this for a considerable period - is abolish the concept of having Ministers in the Senate. I would change that aspect of the bicameral operation of the Parliament. I would remove the existence of Ministers as such in the Senate, and simply have a series of managers of government legislation who would be responsible for taking particular Bills through.

Thirdly, I would find some greater protection for the system of compulsory voting. I would put it in the Constitution so that it could not be abolished by an Act of Parliament.

Finally, I would go back to the days when Parliament was reported substantially differently. In some respects, I think we have allowed a considerable amount of trivialisation of the Parliament. There is a failure to concentrate on those aspects of the Parliament which are meaningful in terms of the way in which legislation is processed - that does not include Question Time. These are the sort of things that I would be looking at in an institutionalised sense.

I cannot resist taking up Michael's comment. When he said he was going to introduce a comment from the *Goon Show* about the current state of one of our political parties, I thought he was going to say that she had fallen in the water.

Dr MACKLIN - I think one needs to correct the imbalance of resources between executive government and parliamentary operations. It is interesting to look back at the introduction of computers. It was a reasonably bloody fight to get computers into the Parliament. At a time when the entire industry in Australia and the entire bureaucracy had gone to them years before, it was not thought appropriate that members of parliament should have access to information; it would tend to cloud their judgment.

One way of dealing with that is not to increase the number of people on the payroll, but to have a percentage of people in each department actually seconded to Parliament and be available for parliamentarians in the Opposition or in any other party that has an influence on the outcome of legislation. I would make it a percentage because that would actually stop the simple substitution of an extra number in a department to counterweight the numbers coming here. So if the department's numbers increased, the numbers available to Parliament would increase. That would start to balance things out.



In order for the Parliament to meet for considerably longer there needs to be a clear view on the part of all parties in Australia that members of parliament would move themselves and their families to Canberra. They would then be able to operate the Parliament on a much longer timeframe. It is not possible to give to legislation the type of debate and attention that is needed by dashing in and out, which is the current process. All of those things can be done by decree, but whether the people would actually support them is another matter.

It was interesting that last week barricades went up around the Russian Parliament building and around the Australian Parliament House. But the difference is interesting: in one country they were trying to get the freedom to have an influence on their own lives and in the other they were worried about the cost of a jam roll and a cup of tea.

Perhaps politics in this country needs to be elevated to a serious business. There needs to be a recognition that what we are about is trying to put the parliamentary system into operation. I think we believe that it operates and that is probably the biggest difficulty. The last decree that I would issue is that everybody in this country would have to have some reasonable amount of time having a political education so as to realise that democracy does not work unless people know how to operate the system.

QUESTIONER - My question concerns some of the areas where parliaments are not working very well. I have just come back from Westminster, Bonn and New Delhi and some of those parliaments are similar to ours and some are different. One of the questions raised was whether there should be a maximum tenure on the life of a person in parliament of, for example, six to eight years. Another issue is that the first-past-the-post system is being denounced as being a manipulation. Another issue is that constituency boundaries are quite arbitrary and there should not be single member constituencies. There should be at least two people and about half of them should be women. Should there be citizen initiated referenda and should not something be done about our so-called democracy, which is a layered democracy where issues get split between the community, local government, the State Governments and Federal Parliament?

Mr PUPLOCK - Let me pick a couple of them. I say that the most insane, unhelpful and destructive change that could be made to the nature of the Australian political culture is to introduce citizen initiated referenda (CIR). In my judgment, that would lead to the community permanently debating those issues which are the most socially divisive and difficult. There will always be CIR on the death penalty, abortion law reform and on those issues which are the most socially destructive and divisive, which should not, in my view, be worked out through that process. The real political issues, not the personal ones, will always be determined in a CIR framework on the basis that the largest quotient of ignorance will prevail.

In terms of the structural things about voting systems, I think that we have a good system federally for the drawing of boundaries. I think that the way in which the Electoral Commission and the augmented Commission works and the fact that the Parliament does not have the right to interfere with those boundaries once they have been set down by the Electoral Commission makes it a good system. The quota system which is used for that is quite fair and proper.

Having a Senate with proportional representation and a lower House of single member constituencies which is based not on first-past-the-post, which I think is a disastrous system, but on a preferential system, in that sense structurally we have a quite good system.

I do not believe in maximum tenure of office. Frankly, if people are around in politics too long, it is a matter for the electorate, their parties and their constituents to determine. Believe me, I think that under the current political climate that we operate, that is a problem which takes care of itself. We do not need a structural arrangement to automatically terminate people's tenure of office after a certain number of years.

Mr BLACK - With regard to tenure of office, I think about eight years is long enough at the top. But then again, it gets a bit hard to implement that. In one way or another, the people decide sooner or later.

I think that by and large our system is a lot better than some of the others around the world that it could be compared with. The problem we have now is that the power of the Executive is such that it has basically frozen out the participants to a large extent and has been successful in implementing procedures that are not necessarily popular and persuading itself that people have accepted those sorts of changes. I think we are going to see a very interesting example of this sort of process with the GST and the Liberal Party where you have a package which is loved by the people at the top of the pyramid, but at the bottom of the pyramid they are a little alienated from the whole thing.

The problem that has grown up is that the membership bases of the parties as a result of this alienation are now too small for them to have a meaningful input into the selection of candidates who are going to be representatives. Clearly, you need to have some kind of opening up of preselection procedures to supporters of political parties as opposed to the combination of the mad, the lonely and the ambitious. If you want to open it up a little more broadly so that your candidates are representative of the community, I think you need some kind of primary system of preselection such as in the States.

Dr MACKLIN - In terms of maximum tenure, I think it is not a practical suggestion for the Australian political scene. Notionally we are still a democracy, so people should be able to stay around as long as people want to put them in office. I think that individuals ought to set their own maximum exercise and get in, do what they can and then get out.

I do not think anybody is going to look at the first-past-the-post system in Australia. With regard to multi-member electorates, again I think Chris has suggested that probably the Federal system by and large ends up with roughly about the best. In a sense, John also referred to the fact that where people have been able to use the bicameral systems around Australia - that excludes my own State of Queensland - they have chosen to have the Parliament out of the control of the Executive in each of those States and at the Federal level. I think that is an interesting fact.

Look at the United States, for example. Its operation allows it to support different parties in the Executive from the Congress. That has been a situation that has grown and almost become stable for its type. In other words, checks and balances are desired by people. The people are trying to use the system. As John suggested, the

upper House will not be resurrected in Queensland because if you have total control of the parliamentary system, why would you want to give it away.

I differ from Chris on the citizen initiated referenda issue. I think it is a good idea. I see it as at least some way of trying to spark the electorate into getting out there, thinking about and debating politics, and debating politics as though it really matters and not something that they despise. There are not too many other suggestions around at the moment that may help us do that. We really need to kick-start the exercise in some way.

QUESTIONER - To what extent is the role of Parliament being usurped by legislation by press statement and discretion being left in the hands of Ministers which Parliament then does not have to approve when it makes decisions about things?

Mr PUPPICK - A great deal of legislation by press statement is going on. It has been going on for some time. The real question is whether the Parliament is prepared to pass legislation to give effect to things which have some date attached to them which relate purely to the date of the press release concerned. I think there is some justification in backdating some of the legislation which arises, say, through the announcement of a change in a sales tax or a customs tariff type of arrangement, because you have to drop that on the table and say, 'as of such and such a time' so that the system does not get rorted by the elapse of time between the introduction of legislation and its final passage, which may be delayed for any number of reasons.

In terms of just about everything else, I do not believe that legislation should be given effect to until such time as it has been passed through the Parliament and a promulgation date has been written into the legislation. That is in the hands of the Parliament. If the Parliament allows itself to be ridden roughshod over all of these sorts of things, that is a fault in the way in which the parliamentarians themselves operate.

In terms of delegated legislation and discretion in the hands of Ministers, I think that the processes by which the Senate for a long time has looked at the question of delegated legislation in fact provide in this country probably the best degree of parliamentary oversight of that particular aspect of parliamentary activity of just about any Westminster type of government. In some areas, ministerial discretion has become an issue, excessively so. It has been abolished, for example, by and large in the immigration area. I think in some areas we have taken away from Ministers the right to make decisions on individual cases, which I think they ought to be able to make as Ministers, and we have straitjacketed them in a way which does not give them enough discretion. That is a checks and balances problem.

Dr MACKLIN - I do not find any problem with discretion being in the hands of Ministers, providing that there is supervision of that discretion. Chris has alluded to the fact that at least in the formal sense, we do quite well in Australia in that area. I suppose that informally it is taken care of by Estimates committees and the like.

At the end of the day, it really depends on how vigilant the parliamentarians are and how much time, energy, effort, and resources they have got. If, in fact, you make sure that they do not have any of the time, energy, staff and resources to be able to look at the discretion of Ministers then it will get out of hand. I think that there has to be an ability for the Executive Government to undertake its role properly and that must include discretion.

I think on the point of press statements, again my position is identical to Chris's. By and large, it is in the hands of the Parliament whether it is constantly backed into a corner where it has to pass these things. I remember that some years back a statement was made, but the legislation did not come into the Parliament for well over a year and a half. That was a piece of taxation legislation which people in the community had been expected to operate on. I think that is simply unacceptable.

One way for Parliament to deal with this is for Parliament itself to say that it will not accept any backdating other than, say, three months or whatever. In other words, it is up to the Executive Government to get its act into gear. If it has to make a pre-emptive statement about, for example, a loophole being found in a taxation law, then it makes that statement and says, 'As of today, this is what is going to happen' and immediately gets the legislation drafted and into Parliament. But to allow the thing to go over three months or so is unconscionable.

Mr BLACK - In relation to the general question we are, as we indicated, writing a book about the political system. In the process of actually planning that book we wrote another one based around some anecdotes and so on that we discussed at the time. The book is about a senator called Frank Bragger who bears no resemblance to any one of us or indeed anyone - 'No-one could ever be that bad', I think is the phrase we use. I might just quote very quickly from two paragraphs of that book about the media, senior politicians and particularly Cabinet Ministers. These are little editorial notes that we made:

Frank knew some of the senior Canberra press gallery members were so used to being wet-nursed by their favourite Cabinet leaks that they had lost the capacity to recognise, research and write real news stories. There was no need to work if you had a good Cabinet leak. You got the PM's views in Cabinet, full Cabinet debates, the Cabinet Minister's views, but above all, you got the well-researched views of his or her department.

....

Frank was learning to become a Cabinet Minister. Some of the Cabinet were past-masters of the leaking game and were rarely criticised for their performance by the gallery roundspersons covering their portfolios. Unless of course, they didn't do exactly as they were told by their department, in which case they were accused in the media of "caving in to pressure groups" or "taking the short-term option". This is departmental code for actually doing what the electorate wants. Unfortunately, while Cabinet Ministers come and go, smart journalists know that a good departmental leak can go on leaking forever. - Ed.

That sums up my views.

QUESTIONER - How do you now see the role of the Australian Democrats? Can they survive as a political force in the Parliament?

Dr MACKLIN - I made a statement to my former colleagues when I left this place that I thought there was an interesting exercise in terms of people who leave Parliament. Some of them, in fact, spend the rest of their lives making comments about their former colleagues, detailing how they ought to operate. Others go off and lead their new lives and make only general comments about politics and the system. I

am falling into the latter. I have already declined to make any specific comments and I will go on declining to make any specific comments about the current circumstance in my Party.

I get a vote, interestingly enough, on the new leader, despite the fact that I am not in Parliament. The Australian Democrats is the only party which allows the members to elect the leader. That is a secret postal ballot. I really love secret postal ballots, because they are secret.

Mr PUBLISHICK - I think the short term answer to that is yes. I would refer you simply to that wonderful scene in the film called *The Lion in Winter* where Katherine Hepburn, playing Eleanor of Aquitaine, ends up sprawled all over the floor and looks up into the camera and says, 'Well, what little family doesn't have its ups and downs?'

QUESTIONER - Who dominates the Executive? Is it politicians or is it the bureaucracy? Who do they dominate if upper Houses are not in the control of the governing party?

Mr BLACK - Within the political component, that is, the members of Cabinet, the power resides - whatever the party - with the senior finance Ministers and the Prime Minister, who is able to pretend to be an umpire whilst at the same time is able to move the goal post after the ball has been kicked. I do not think there is any doubt about that, nor is there much doubt that anything has changed since Keynes's time. Treasurers and finance Ministers are all, I guess, intellectually captive to varying degrees to the sorts of economic philosophies that were peddled to them when they were students. I do not think anything much has changed in either the Government or the Opposition. They fall in love with an idea because of its intellectual elegance in their past and they sort of nurture it in their bosom until they get in a position to do something about it, whatever their party wants or whatever the people want.

Mr PUBLISHICK - I think the dominance question over the Executive is, in fact, a function of the way in which a Prime Minister or leader of an executive operates. I think quite clearly that the individual style and personality of particular leaders is of critical importance. In this regard, I happen to believe in the Carlyle philosophy of history in terms of what are the engines that make the thing operate. But the most skilful domination of an executive is by the senior bureaucrat who can, in fact, show the political leaders how to effectively implement their political programs with minimum hurt to the electorate and minimum change in the overall direction the country is taking. The bureaucrat who manages both to persuade the political masters that their most favoured schemes can, in fact, be enacted and, at the same time, do so without disturbing the fundamental directions of economic and social policy in the country - shows real domination. The key to it is to never be found out.

Dr MACKLIN - When one sits across from Ministers over a 10-year period, as I did, and gets to ask questions of both Liberal and Labor Ministers, it becomes pretty clear to one that you are not talking about a single domination of the bureaucracy over the Ministry or vice versa. You are talking about an individual case. Some Ministers obviously run their own agenda and others do not. It becomes very clear after a while who is doing what, particularly when governments change.

I went through this exercise in the early 1980's. I had asked a number of questions and there was then an election - one of those early elections that happened only 18 months into my six-year term when I first got into the Senate. I thought I was

settling down for six years and I had actually believed that the term for senators was six years. That was the first mistake I made.

I had asked a series of questions and I got the answers, none of which were satisfactory. Then we had an election. I came back to office and as I went through my in-tray I found all these answers and I did not think they were too good. I thought to myself, 'We have a whole new set of Ministers', so I went into Parliament and asked all the same questions again. I got the same set of answers back. Nothing had changed. We had an election; we had a dramatic change, as it were, from one political system to another - from one party of conservatives to the new radical socialists - and the bureaucracy gave me the same answers. The bureaucrats were not fazed and neither was the Minister, who thought that the answers that were given were perfectly in keeping with whatever it was he or she believed.

That, however, did not happen with every Minister and undoubtedly there were some who made their mark on their departments and ran their own agendas. So I think that one should not make the very broad statement that it is a one-way street. By and large, those Ministers who make their mark are soon inundated with further work and are often moved pretty rapidly. I suppose at the end of the day one would despair of the political system if one knew that there was some other way of dealing with the matter. I suppose that is the very circumstance which the Soviet Union is going through, at the moment, of trying to work out a system which will actually combine the input of people with running an effective and efficient government.