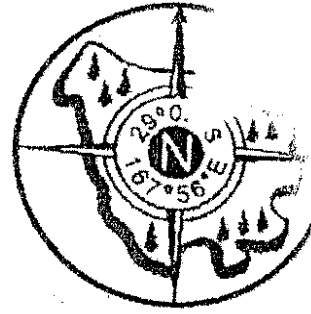




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Norfolk News c. 1965

Volume 36, No. 9

SATURDAY, 20th JANUARY 2001

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A Charter for Norfolk?

The following Press Release was received from Adrian Cook QC, MLA.

"Elsewhere in the paper is the Notice of the Motion I intend to introduce into the Legislative Assembly on 24th January 2001.

It is important that the community have some appreciation of the reasons for and advantages of introducing that motion at this time. It is not associated with any possible resolution of my appointment as an Executive Member.

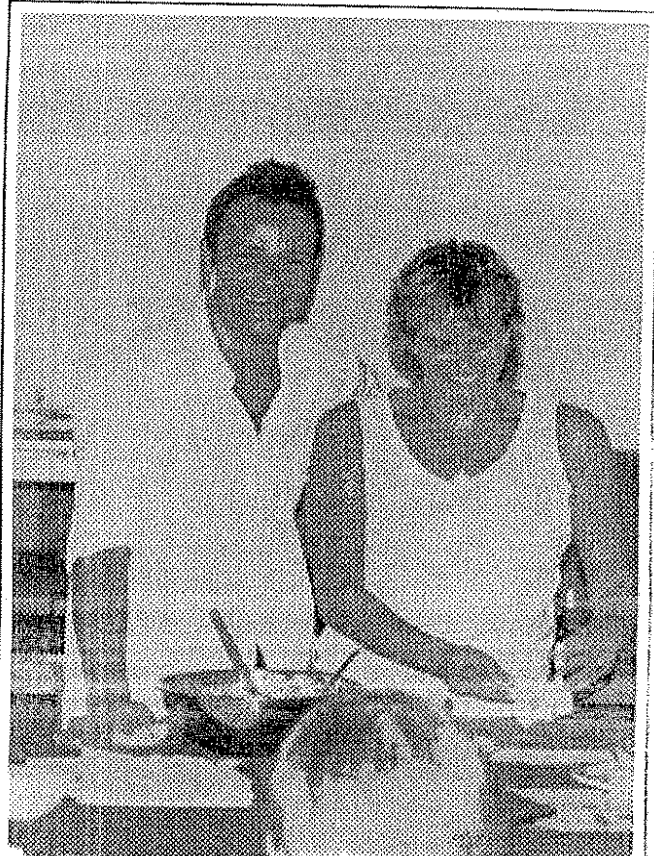
It relates to my own, very real concerns and the perceptions of many others, that the 9th Assembly has essentially lost the confidence of the community, in its ability to govern, effectively, the Island's affairs. I will be speaking to a number of matters which arise for consideration on my motion.

There are important issues which require immediate attention. I have requested the Editor to find space to publish the Charter of the Island of Man - ancestral home of Fletcher Christian's family - and the Code of Conduct of the Assembly of Saskatchewan, Canada. I express my gratitude to him for allowing these documents to come before the community.

While I do not suggest that they be copied exactly by Norfolk Island, I suggest that as part of a fresh start, they could well form the basis of a much needed Charter for the Island which could be enshrined in legislation, changeable only at the will of the community.

There is also, I believe, ample and proper grounds for restructuring our Legislative Assembly at this time so that it has a chance to become a House of democratic consensus and does not continue to appear to be a House of dissention and inaction, out of touch with the very real concerns of this community."

Adrian Cook
19th January, 2001.



Cooking Classes hit the right spot

The ABC TV may have their Ian Parmentier and "the Naked Chef" but over the last 2 weeks Norfolk Island residents have had the opportunity to attend a cooking school under the expert guidance of Patrick Collins, host of *The Morning Shift*, Channel 7's popular programme.

Such was the interest - from both ladies and men - that Patrick, and the dynamic duo of brothers Brett and Miles Sanderson had to slot in an extra two classes to cope with the demand.

Patrick is photographed with Megan Adams who was learning some of the finer points about preparing Italian dishes.

**NORFOLK ISLAND
NINTH LEGISLATIVE
ASSEMBLY
NOTICE PAPER NUMBER 11**

Notices

1 APPOINTMENT TO EXECUTIVE OFFICE OF MINISTER FOR IMMIGRATION AND COMMUNITY SERVICES

Mr Nobbs (Chief Minister) to move – THAT Adrian George Hingston Cook QC, MLA be reappointed to the executive office of Minister for Immigration and Community Services and the Administrator be advised accordingly

2 WRIT FOR NEW ELECTION

Mr Cook QC to move – THAT this House resolves that the 9th Legislative Assembly be dissolved and the Administrator be advised that writs for a new election should issue at the earliest possible time

3 PUBLIC SECTOR MANAGEMENT ACT 2000 - APPOINTMENT OF MEMBERS OF THE PUBLIC SERVICE BOARD

Mr Nobbs (Chief Minister), by leave, to move – That this House, in accordance with paragraph 10(1)(a) and subsection 11(1) of the Public Sector Management Act 2000, recommends that the responsible executive member appoint the following persons to the Public Service Board, and to the respective positions appearing beside their names

- Glenn Robinson – Presiding Member
- Gisele Robyn Huxley – Member
- Charles Brent Hattersley – Deputy Presiding Member
- Philippa Anne Elizabeth Reeves – Deputy Member

4 MUSEUM TRUST ACT 1987 – APPOINTMENT OF TRUSTEES

Mr Nobbs (Chief Minister) to move – THAT this House, for the purposes of subsection 5(1) of the Museum Trust Act 1987, resolves that –

- Albert Fletcher Buffett; and
 - Janice Lyn Christian
- be appointed as trustees under the Act until 9th April 2001

5 EXECUTIVE POWERS (REMOVAL OF DOUBT) BILL 2001

Mr Nobbs (Chief Minister) to present a Bill for an Act to validate matters incidental to, or consequential on, the execution of executive authority in certain circumstances and for related purposes

ORDERS OF THE DAY

1 REPORT ON MATTERS RELATING TO IMMIGRATION INTO NORFOLK ISLAND

Resumption of debate (Mr Cook QC) from 20th December 2000 on the question – That the House take note of the Paper, namely, the report tabled by Mr Cook at the December sitting pursuant to a motion passed on 15th November 2000 requesting him to report on a number of matters relating to immigration into Norfolk Island

2 LEGAL OPINION FROM CROWN COUNSEL ON “PARTICIPATION OF ADRIAN COOK QC, MLA IN ‘THE TRIAL OF FIFTEEN’


Resumption of debate (Mr Bates) on the question – That the House take note of the paper

3 AMENDMENT TO IMMIGRATION AMENDMENT (NO. 2) BILL 2000 IN RESPECT OF NEW ZEALAND VISAS

Resumption of debate (Mr Smith, Minister for Tourism and Commerce) from 20th December 2000 on the question – That the motion be agreed to, namely – THAT this House agrees that the Immigration Act 1980 (“the Act”), as amended by the Immigration Amendment (No. 2) Bill 2000, be further amended to provide that, where the Act states that there is a requirement for people wanting to travel to Norfolk Island to have an Australian visa, that that requirement be extended to include words “or New Zealand”

4 PUBLIC SECTOR MANAGEMENT ACT 2000 – APPROVAL OF HUMAN RESOURCES POLICY

(continued overleaf)




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ARGOSY SHIPPING

The Oldest Legislature in the World but as modern as the new millennium

The Isle of Man's economic and social achievements would not have been possible without the stability which its constitution and institutions provide. Her Majesty the Queen as Lord of Mann is Head of State. Her personal representative on the Island is His Excellency the Lieutenant Governor, who is appointed by the Crown for a five year term. The Island is a Crown Dependency which, through its ancient parliament, Tynwald, enjoys a high degree of domestic legislative and political autonomy. The United Kingdom Government is, by convention, responsible for the conduct of the external relations and defence of the Island.

The Isle of Man has a restricted relationship with the European Union by virtue of Protocol 3 of the Act of Accession of the UK. This extends the European Union legal regime to the Island for limited purposes, principally customs and the movement of goods. The Island neither makes nor receives any financial contribution from European Union funds.

Dating back to Viking origins over one thousand years ago, Tynwald is the oldest legislature in the world in continuous existence. It has two branches: the House of Keys and the Legislative Council. The majority of Members sit as independents, and the virtual absence of party politics encourages a high degree of consensus. This has contributed to the remarkable stability of the Manx system.

The twenty-four Members of the House of Keys (MHKs) are elected by universal adult suffrage every five years. Eight of the eleven Members of the Legislative Council (MLCs), are elected by the Members of the House of Keys; The remaining Members of Legislative Council are the ex officio members, H.M. Attorney General and the Lord Bishop, the President of Tynwald, who is elected by Tynwald as a whole. The Legislative Council generally acts as a revising chamber for Bills which are usually introduced in the Keys. The Royal Assent to Tynwald Bills is given by the Queen or, now more commonly, by His Excellency the Lieutenant Governor.

The branches sit separately throughout the parliamentary year principally to enact primary legislation; they sit together as Tynwald Court mainly to debate matters of policy, approve delegated legislation and to adopt financial motions. On 5th July each year, Tynwald Court assembles in the open air on Tynwald Hill at St. John's, a Viking site of the Manx parliament, to conduct parliamentary business and receive petitions for redress from aggrieved citizens.

The Island has a ministerial system of government. The political head of the Manx Government is the Chief Minister, who is nominated by Tynwald from amongst its own members and appointed by His Excellency The Lieutenant Governor. The Chief Minister selects the ministers who have responsibility for the major Government Departments and, with the Chief Minister, form the Council of Ministers, the Manx Cabinet.

The objective of the Manx Government, as set out in its policy document:

CENTRAL GOVERNMENT POLICIES AND OBJECTIVES

Society / The Economy / Our Environment/
Quality of Life / Population
Constitutional development / International
Relations / Government

Society

To maintain and develop respect for a free and fair society which values self-reliance, tolerance and the rule of law and which strives to create equality of treatment for all its members.

* To protect the human rights and fundamental freedoms of every individual.

* To seek to reduce the incidence of crime

* To cultivate respect for authority and the rule of law.

* To ensure that individuals are afforded the greatest possible equality of opportunity and treatment

* To create opportunities for self development and self-expression through lifelong education and training

* To ensure that support is available for the disadvantaged members of society and that they are integrated as fully as possible into society

* To ensure that every individual has fair and equitable access to the judicial system.

* To encourage self-reliance and a sense of community and personal responsibility.

The Economy

To pursue manageable and sustainable growth based on a diversified economy with the aims of:-

(a) continuing to raise the standard of living of the whole population;

(b) securing continuous future prosperity throughout the Island; and

(b) providing the resources needed to sustain public services.

* To maintain the climate which encourages maximum employment opportunities and the raising of average earnings on the Island.

* By the use of policies, resources and the time-tabling of projects to moderate so far as possible the more extreme fluctuations in the economy's performance.

* To seek to increase the proportion of the population which is economically active.

* To seek to secure growth through businesses which show promise of high earnings and profits; that are likely to be stable and enduring; which are of high quality and good reputation; which represent a diversification of the economic base; and accord with agreed environmental policies.

* To develop a workforce equipped with appropriate skills through education, training and re-training.

* To create a competitive business environment which is based on fair trading and which encourages the establishment and maintenance of businesses of all sizes.

(continued overleaf).

The oldest Legislature - continued.

Our Environment

To preserve, protect and improve the quality of the environment through the pursuit of sustainable development.

* To promote the preservation of the countryside and wildlife

* To endeavour to prevent environmental pollution by effective planning and regulation.

* To dispose of the Island's wastes in a safe environmentally acceptable, effective, efficient, and cost effective manner.

* To encourage the provision of a safe environment and health and safety in the workplace

* To set appropriate environmental standards and to ensure that they continue to be met.

* To progress plans, circulars and development briefs which reflect, in land use terms, the agreed general policies.

Quality of Life

To seek to safeguard and enhance the elements that are essential to the Island's quality of life.

* To encourage greater awareness and understanding of our environment and heritage.

* To encourage a spirit of community support.

* To encourage the provision of housing that is appropriate, adequate and sufficient to meet the needs of the community.

* To promote a greater awareness of health and healthy living.

* To sustain and actively encourage rural communities.

* To encourage sensitive urban regeneration.

* To seek to avoid rapid and stressful changes in society.

* To encourage the development of leisure and recreational opportunities.

* To encourage the further development and improvement of internal and external communications

Population

To ensure that the population does not, by virtue of its structure, size or rate of growth, prejudice the quality of life, whilst seeking to ensure that the Island has a population which is sufficient in skills to serve the needs of the community and the economy.

* To seek to avoid imbalances in population and maintain population indicators to identify change.

* In managing the population to have regard to constraints imposed by infrastructure, environment and social and economic factors.

Constitutional development

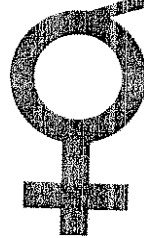
To promote and continue the evolution of the constitutional relationship between the Isle of Man and the United Kingdom towards more complete self-Government.

* To promote and defend vigorously the Island's autonomy in relation to its internal affairs.

* To retain the link with the Crown.



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International Relations

To promote and seek to ensure recognition of the Island's interests internationally and to honour the Island's international obligations

* To maintain a constructive relationship with the European Union which ensures the Island's continued right to trade with Member States and protects established rights and safeguards

* To consider constructively and on the merits of each case the extension to the Island of appropriate international agreements.

* To recognise the importance of world influences and of contacts with the wider world, to be alert to international developments which have implications for the Island and to respond appropriately

Government

To provide a Government committed to stability and to the progressive development of the Island.

To forward plan and develop strategies for the economic, efficient and effective provision of the services and infrastructure necessary to meet the Island's needs.

* To develop further a system of Government which is cohesive, co-ordinated and can act effectively.

* To recruit and retain appropriate well-motivated and properly trained personnel placing an emphasis on the recruitment, training and retraining of local persons.

* To ensure that policy makers are publicly accountable through the development of an open, stable, and democratic Government.

* To undertake a regular review of services and ensure that those to be delivered by, or on behalf of Government, are provided in an efficient and cost-effective manner, with a minimum of bureaucracy.

* To promote and utilise modern information and communications technology.

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...and from Saskatchewan, Canada - **Code of Ethical Conduct for Members of the Legislative Assembly** Preamble

As Members of the Legislative Assembly we recognise that our actions have a profound impact on the lives of all Saskatchewan people. Fulfilling our obligations and discharging our duties responsibly requires a commitment to the highest ethical standards.

Statement of Commitment

To the people of this province, we owe the responsible execution of our official duties, in order to promote human and environmental welfare.

To our constituents, we owe honesty, accessibility, accountability, courtesy and understanding.

To our colleagues in this Assembly, we owe loyalty to shared principles, respect for differences, and fairness in political dealings.

We believe that the fundamental objective of office is to serve our fellow citizens with integrity in order

to improve the economic and social conditions of all Saskatchewan people.

We reject political corruption and will refuse to participate in unethical practices which lend to undermine the democratic traditions of our province and its institutions.

Declaration of Principles

Members of this Assembly must carry out their official duties and arrange their private financial affairs in a manner that protects the public interest and enhances public confidence and trust in government and in high standards of ethical conduct in public office.

Members of this Assembly must act not only lawfully but also in a manner that will withstand the closest public scrutiny; Neither the law nor this code is designed to be exhaustive, and there will be occasions on which Members will find it necessary to adopt more stringent norms of conduct in order to protect the public interest and to enhance public confidence and trust.

Every Member is individually responsible for preventing potential and actual conflicts of interest, and must arrange private financial affairs in a manner that prevents such conflicts from arising.

Members of the Assembly must carry out their official duties objectively and without consideration of personal or financial interests.

Members of the Assembly must not accept gifts, benefits or favours except for incidental gifts or customary hospitality of nominal value as provided for in legislation.

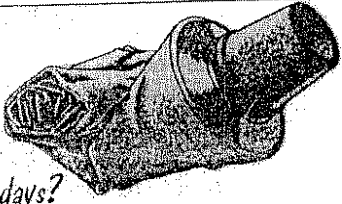
Members of the Assembly must not take personal advantage of or private benefit from information that is obtained in the course of or as a result of their official duties or positions and that is not in the public domain.

Members of the Assembly must not engage in personal conduct that exploits for private reasons their positions or authorities or that would tend to bring discredit to their offices.

Members of the Assembly must not use, or allow the use of, public property or services for personal gain.

Members of the Assembly, when leaving public office and when they have left public office, must not take improper advantage of their former office.

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CODE OF ETHICAL CONDUCT

FOR MEMBERS OF THE LEGISLATIVE ASSEMBLY

PREAMBLE

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**NATIONAL PRESS CLUB ADDRESS
24 APRIL 2002**

THE AUSTRALIAN PARLIAMENT: TIME FOR REFORMATION

The Australian Parliament, it appears, is perennially seen as an institution in need of reform. Reform proposals are again being proclaimed. A reform is a change for the better. Are the changes usually proposed really reforms?

Before a major institution can be reformed, as distinct from simply changed, the following questions must be answered: What is the institution for, what functions is it meant to perform? Is it performing those functions well, and, if not, why not? Are there any changes which could make it perform its functions better?

So-called reform proposals are mostly put forward without answering, usually without even posing, these questions. The usual proposals, however, conform to an orthodoxy based on unstated answers to these questions. This orthodoxy always seems to appeal to governments in their second or third terms.

These orthodox proposals for changing parliament are based on what might be kindly called the electoral college theory of parliament. According to this view, the electors elect a party (or a party leader) to govern. The government governs with total power to change the law and virtually to do what it likes between elections. The purpose of parliament is to register the voters' choice of a government, that is, to act as an electoral college. Parliament must not interfere with the government governing, as that would be a violation of the system. In particular, for an upper house with a different electoral basis and party composition to interfere with the government is a violation of democracy. In other words, to use a less kindly term, parliament should be a rubber stamp.

There are two major difficulties with this theory. First, if the electors are to choose a government and give it virtually absolute power, the electoral system should surely be designed to reflect accurately the electors' choice. Unfortunately, the electoral system we have for lower houses results in parties winning government usually with only forty-odd percent of the vote and sometimes less. The electors get the government which most of them have not chosen. Preferential voting does not cure this defect. Frequently parties win government with fewer votes than their major rival even after the distribution of preferences. This has occurred in five federal elections in the last 50 years. We cannot make fun of the 2000 American presidential election when two of our last five federal elections produced a

similar result. One would think that people who follow the electoral college theory of parliament would be demanding reform of the electoral system as their first priority.

The other difficulty is that if we choose a government and give it absolute power, what is the purpose of having a parliament at all? It is a very expensive institution to keep, if it is only an electoral college. We could save a lot of money by dismissing all its members after the election, as with the American electoral college. Why keep a solid gold, Rolls Royce rubber stamp?

If pressed, the followers of this theory usually fall back on responsible government. Do we not have a system of responsible government, whereby the government is responsible to parliament? Responsible government was a system which existed from the mid 19th century to the early 20th century, after which it disappeared. It involved a lower house of parliament with the ability to dismiss a government and appoint another between elections. This system has been replaced by one whereby the government of the day controls the lower house by a built-in, totally reliable and "rusted on" majority. Not only is the government not responsible to, that is, removable by, the lower house, but it is also not accountable to it. The government's control of the parliamentary processes means that it is never effectively called to account in the lower house.

The system of a government with total power between elections exists only in a few jurisdictions, such as the state of Queensland. In Australia generally it is modified by upper houses which, because of different, and usually more representative, electoral systems, are not under the control of the government of the day. They are able to amend or reject the government's legislative proposals, and inquire into government activities. The effect is that laws are not made unless there is broader public support than is reflected in the government's forty-odd percent of votes, and that governments have to submit to more scrutiny than they permit in the house they control.

If we ever moved to the pure electoral college system, most people would find the consequences very surprising. For example, in recent days a procession of witnesses of divergent views has come before a Senate committee to express great apprehension about the government's anti-terrorist legislation. They have called it the most dangerous and draconian legislation ever proposed. According to the electoral college theory of parliament, this legislation should already be in effect. There should be no parliamentary meddling with it, because the government must govern, and certainly no delaying committee inquiries.

But, says the moderate wing of the governments-must-govern faction, why cannot upper houses review and scrutinise without having the power to reject legislation? Upper houses have only one hold over governments, their ability to withhold assent from government legislation. This is the only reason for governments complying with accountability measures of upper houses: as a last resort, an upper house with legislative powers could decline to pass

government legislation until an accountability obligation is discharged. An upper house without legislative powers could simply be ignored by a government assured of the passage of its legislation. A reviewing house without power over legislation would be ineffective.

It is sometimes said that the traditional parliamentary activities of considering legislation and conducting inquiries do not constitute accountability of government to parliament, but simply exercises in partisan politics. The government's opponents use the parliamentary processes to delay and question its measures. To say that parliamentary accountability works through partisan politics, however, is not to deny the validity of the process. In free countries, accountability mechanisms ultimately depend on partisan politics and on giving a government's opponents the institutions and the powers to call it to account. Governments which are not checked by politics operating through parliamentary processes are governments which are not accountable.

Leaving aside the question of the functions of parliament, and proceeding to the second question: What is wrong with parliament that it needs reform? The implicit answer of the orthodox reformers is that it puts too many difficulties in the way of governments governing, too many limitations on the power of governments to do what they like between elections. This naturally leads to a further question: Why should governments have absolute power between elections? What advantage would we gain by removing parliamentary limitations on government power? Usually the orthodox reformers have no answer. If pressed, they say it is because the country must have certain legislation. Currently it appears that we must have certain media ownership legislation, which is self-evidently good for us. How we are to know that it is good for us without thorough examination through parliamentary processes is not explained. The claim is also made that we must be economically efficient, and we will regress economically if the government does not have unfettered power to do what is economically good for us. The same people, however, tell us that at present, under the current parliamentary system, the economy is doing wonderfully well. Perhaps we could have an even more efficient economy if the government were all-powerful. If asked for an example of an efficient economy, these people usually cite the United States, the country which has the most rigorous institutional and political constraints on the power of the government.

In any event, the argument that powerful government equals economic efficiency has been blown out of the water. The American academic Arend Lijphart conducted a detailed study of stable modern democracies, rating them according to whether they have more majoritarian systems (in which one party wins power with few limitations) or proportional or consensual systems (in which parties are compelled to share power and compromise). He found that, on a range of economic and social indicators, including economic growth, inflation and employment, the proportional/consensual systems clearly outperformed the majoritarian systems. This finding has been supported by a recent comparison of Australia's economic performance with that of the Netherlands, Lijphart's most proportional/consensual country.

In spite of their only argument having been decisively refuted, the proponents of orthodox "reform" press on. Every so-called reform of parliament turns into a proposal to reduce it to a rubber stamp. We have been provided with a perfect example in recent days. A proposal to change the parliamentary term to four years was floated, probably initially to fill in time between afternoon tea and the cocktails at a party conference. This change is said to be self-evidently necessary for economic efficiency. We were not given time to consider whether, if politicians now are short-term thinkers, incorrigible pursuers of quick political advantage and pork-barrellers, adding a possible extra year to their term would turn them into statespersons and great forward planners. The proposal immediately developed into schemes to nobble the Senate entirely, to allow the government, under various guises, such as joint sittings, to pass any legislation it liked and, as a necessary by-product, to avoid any parliamentary accountability. If these schemes appeared too drastic, perhaps we would buy the old chestnut of "stopping the Senate blocking supply". As this usually involves allowing the government to call anything "supply", the effect would be the same.

Unfortunately for our would-be reformers, the electors have not realised that paradise awaits them if only they would give governments longer terms and absolute powers. The electors appear to have an instinctive appreciation of the value of safeguards between elections. Some of them go so far as to vote for minor parties and to vote differently in the two Houses in order not to give governments total power. When asked to approve the reformers' schemes in referendums, they have a stubborn scepticism. They also do not appreciate being told that they will be made to go on voting until they vote correctly. One of the current proposals is simply a rerun of the so-called "simultaneous elections" proposal, whereby the government would be able to go to an early election at any time of its choosing and take out half or all of the Senate without the restraint of the fixed Senate term. This scheme has been put to referendum and rejected on four occasions. This lack of enlightenment on the part of the electors naturally turns the minds of governments to nobbling the Senate without a referendum by ordinary legislation, for example, by abolishing or sabotaging the system of proportional representation so that the government could control both houses.

If the rubber stamp theory of parliament were ever put into effect, with or without the approval of the electors, those who were most eager for it would probably be the first to regret it. Media ownership legislation and anti-terrorist legislation may be passed today, but it may be repealed tomorrow and quite different legislation passed with the same lack of consideration and restraint.

Assuming that the electors remain unwilling to swallow all-powerful government, and they are not forced to accept it by other means, are there any reforms which would really improve parliament as the institution for representing all of the voters, filtering legislation and making governments accountable?

One such reform is fixed term parliaments, whereby both houses would serve for a fixed term, whether of three or four years, and the House of Representatives could be dissolved early only if the government lost its majority and another government could not be formed. This genuine reform would have many advantages:

- prime ministers would no longer have the power to call early elections at times of their choosing
- every government would serve out its term, thereby achieving the stability so longed for by orthodox reformers
- with no possibility of an early election, members of the House of Representatives might be inclined to be more effective in requiring accountability
- the situation of the Senate refusing supply to force an early election would not recur, because there could be no early elections.

Fixed terms could be accompanied by other real reforms. In case of a real deadlock between the Houses over appropriation bills, the government could be allowed to draw on an amount equal to last year's appropriations until the disagreement is settled. For other deadlocks, a government not willing to risk the double dissolution mechanism could have the option of putting the disputed legislation to a referendum at the next election.

A bill for a referendum for fixed term parliaments was passed by the Senate in 1982 on the initiative of the Labor Party, with the support of the Australian Democrats and a considerable number of coalition senators who voted against their own government to support the proposal. Public opinion polls showed that it had an excellent chance of success at a referendum. It awaited only a change of government in the 1983 election to be put to the popular vote. The incoming Labor government, however, decided that it was not a priority, and dropped it. That action tells us a great deal about the motives of governments in proposing changes to the Constitution.

What is needed is not "reform" of parliament but reformation. The latter term connotes a reform which is designed to return an institution to its original purpose, from which it has fallen away. We do not have parliaments so that they can be rubber stamps. We have parliaments to represent the voters properly, so equipped that the holders of the executive power cannot legislate by decree like absolute monarchs and can be made to account for their actions between elections. Any changes to the institution of parliament should be designed to assist those ends.

Harry Evans

