



***AUSTRALASIAN STUDY OF  
PARLIAMENT GROUP  
(Queensland Chapter)***

***Representing the People: The  
Role of Parliament in  
Australian and Queensland  
Democracy***

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**Representing the People: The Role of Parliament in Australian and Queensland  
Democracy. A Joint Seminar of the Constitutional Centenary Foundation and the ASPG  
(Qld Chapter)**

**Dr REYNOLDS:** I welcome you to the first meeting for this year of the Australasian Study of Parliament Group, Queensland Chapter, in conjunction with the Centenary Foundation Incorporated. My name is Paul Reynolds and I am the chair of the Queensland Chapter of the ASPG. It was with great enthusiasm that we responded to our colleagues from the Centenary Foundation who asked us if we could jointly organise our first meeting for this year according to a joint program. By great good fortune, our national president, Dr David Solomon, who is resident in Queensland, had in fact written a paper which served very purposefully as the launching pad for this meeting.

Our two distinguished speakers this evening are Senator Cheryl Kernot, senator for Queensland, Leader of the Australian Democrats in the Senate, and Mr Daryl Melham, who is the member for Banks in Sydney, Labor Party member who is the chair of the House of Representatives Constitutional Legal Affairs Committee. They have both agreed to come and speak to David's paper, although I am not certain how closely this will be a commentary on David's paper; more a gloss or an interpretation thereof. I welcome you, the audience, and I welcome the speakers.

**Dr SOLOMON:** Thank you, Paul. There has been a certain amount of misrepresentation. The way in which this document was put together was that the Constitutional Centenary Foundation called a group of people together, about 14 or 15 of us, and invited us to write a chapter each for a document. They then decided that there should be a group of another 15 or so people who would look at what we had written. We all got together once or twice and complained about what each of us had said, and from that, I, with the help of Paul Finn from the ANU, distilled a document which went through a couple of drafts, and that finished up as a document which you do not have in front of you, of which I have a few copies. That then went to the Constitutional Centenary Foundation, which proceeded to produce a different document altogether, and that is the one that has been distributed.

I thought I should put to you some of the questions that, in our preliminary paper, we thought were important. They do not have the benefit of this. I will give them a copy as they come forward. There are quite a few questions and they are not exactly in the style that this document was put in, which is more like a document written by a constitutional lawyer. The questions are: what should the role of Parliament be in modern Australia? Is it right that it is, and should be, merely a prize for the victor at elections to be used between elections to do the Government's bidding? If it is to have some independent role, should that be restricted to the consideration it gives to legislation or to the administration of Government? What should its relationship be with the Government? If it is not to be subservient, does this mean that there must be a change in the party system or the electoral system? Should the Government be moved right out or partly out of the Parliament? Should the Prime Minister be elected by a national vote and not just by the parliamentary members of the winning party? Does Parliament sufficiently represent the public or the wide range of views held by voters? Can it be made more representative? Why are Parliaments so badly behaved? Would it make any difference if presiding officers could be insulated from the parties which put them in office? How could this be achieved?

Why is there so much political confrontation in Parliament? Is that the fault of the way Parliament is organised or of the political parties or of the media? Should there be an attempt to improve political behaviour? Where should this begin? Are our parliamentarians good enough? Are they sleazy or honest? Do they have the right qualifications? Should the parties give voters more choice by running primary contests, as occurs in the USA, so that voters in safe seats will be able to choose which person should represent their party? What should ordinary members of Parliament do—those who are not Ministers? Is their primary function to act as social welfare workers for those who elected them? Should they play an independent role in the Parliament, criticising their own party if need be, or are they elected primarily to vote the party line? What can and should ordinary voters do if they are not satisfied with the role and functioning of Parliament? Is parliamentary reform an issue which should be given some or more weight by politicians and/or by voters?

I hope that broadens the debate a little. Now I would like to call on Daryl to open the batting.

**Mr Daryl MELHAM, MP:** Thank you, David. It is a bit of a worry when you are followed by a senator, but it is nice to be in a State that does not have an Upper House. I suppose it would help if I gave you a bit of my background because that will then give you an

indication basically of where I am coming from. I actually think that Australia has one of the best democracies in the world. This really is an egalitarian country where, in terms of the Parliaments of Australia, if you want to make a contribution, I think you can make a contribution. A lot of it depends on yourself.

My parents were born in Lebanon. My father came to Australia in March of 1926 with his family. He settled in New South Wales, moved into the Bankstown area in the early thirties, returned home in 1947 and married my mother and brought her back to Australia in 1948 and had 10 children—eight boys and two girls. I am No. 4 in the family. I was not politicised; there was no politics in the family. I cannot recall my parents ever discussing politics.

I attended local Catholic schools; I am a De La Salle boy. I am the other Bankstown boy that you do not know about. I became politicised in 1974 when I went to university. Gough Whitlam was Prime Minister and he headed what I still regard as probably the best Government that this country has ever seen in terms of vision, raising hopes and expectations and creating opportunities for a generation of Australians.

The reason I joined the Labor Party back in 1974 was not because I was one of the current brigade that might join a political party looking for a seat but out of gratification for the fact that I was able to go to university because the then Labor Government opened up universities. I wanted to put something back into the political party that gave me an opportunity to study economics and law at Sydney University. So I graduated from Sydney University, and after I had been on unemployment benefits for three months someone had the temerity to offer me a job in private practice, and after three months of disillusion because of the fees that were being charged I was rescued by the Legal Aid Commission. In December 1979, I commenced work as a public solicitor and worked in the Legal Aid Commission till 1987 when I was appointed a public defender, which is a legal aid barrister. If anyone has watched Rumpole of the Bailey, that was the sort of work that I did. I never prosecuted; always defended. I never charged any fees. I was committed to public service. I was of the view that there were plenty of qualified and professional people in the public service who were there to provide just that.

I was not interested in terms of being a member of Parliament until an incident where Hayden was challenged by Hawke in terms of the leadership of the Labor Party. Given subsequent events where I am known as one of the last people in the cart who stayed with Bob Hawke, it was a bitter irony, but it was Hawke's challenge to Hayden that really gave me disillusionment with my local member of Parliament. Basically, that was because at a local Federal electoral council meeting we all asked him who he voted for and he said, "I'm not going to tell you; someone with the initials of BH." So we had to read about it in the *Sydney Morning Herald*. My Mediterranean blood got the better of me and I said, "Stuff you, that's the end of you." It took a long struggle against a Right Wing party machine to actually get endorsement for the seat because I took the view that it was no good to be a critic from the sidelines, that if I was going to knock someone who they thought was doing a particular job, then I better put up or shut up, and that is what I did. After two selection ballots that did not take place because I had the numbers and I was not one of the favoured sons, the third time round they actually called the preselection ballot and I was elected unopposed.

I was elected to the Federal Parliament in March 1990. I still retain my practising certificate as a barrister. I had to resign, and I did, and made sure my resignation was accepted by the Governor in Council before I nominated because I held an office of profit under the Crown. But the good thing about my time at university and those Whitlam years was that it taught me to question, to look behind the headlines, to challenge, and I also felt safe doing that. That is the great thing about being a member of Parliament in this country; you can stand up to a Prime Minister in a Labor Party caucus, you can challenge his views, providing you do not defame him, of course, either there or in other places, and you are not found on the side of a road or you are not imprisoned.

So it often amazes me when there is this silence when things are actually going wrong in political parties, this lack of people coming forward to challenge the authority of the leader. I suppose the one problem with our political system, the way it develops—but I think it is a problem with personalities—is that when you assume the leadership of a political party, that gives you tremendous authority. What are the checks and balances? We can sit back and we can be critical of Keating, or we can be critical of Howard, and plenty of times I am, but I would like to think that it is a constructive sort of criticism. I have had, I think, a number of successes within the parliamentary party, both in caucus and in terms of the operating of the Parliament, which I will come to in a minute, because I think there is a way of doing things.

It is not surprising to me that occasionally our leaders tend to go off on a tangent, because the structure is pretty impervious to what is happening on the ground. That is why it is important for other members of Parliament to keep their feet on the ground and also for members of the community not to give up on the Parliament. I did not join the Parliament or go into politics because of the money; I actually took a pay cut. I do not want congratulations for that. But I never thought I was a great lawyer, or I never thought I would achieve anything in the law. I did not have the money of a Rupert Murdoch or a Kerry Packer, so I did not have the opportunity of making a contribution to our society through the business sector. But I thought that, if I did my homework, I might be able to make a minor contribution to the sort of society in which we are living through politics.

This is an excellent paper. I do not really need to regurgitate a lot of the things that are in it, because I think it does raise a lot of the questions and a lot of the experiences that I have had. I thought it would be better if I just spoke to you anecdotally about my role as a Government backbencher. I note that somewhere in the paper it says—

"In some respects the position of Government backbencher is the most frustrating of all. Any criticism must be confined to the caucus, which may or may not be a satisfactory outlet."

That is true, but, to me, it is also a learning experience. This month I celebrate five years in the Parliament—five long years—where a Labor Party in effect deselected a Prime Minister and installed another Prime Minister, we sent people off to the Gulf war, we flogged off the Commonwealth Bank, we had a go at Qantas and a number of other things. They were pretty historic sorts of decisions. You might agree with some of them and there are some that you might not agree with. But what I have noticed—and there is another comment in the paper—is that there is this cynicism in the community now in terms of the Parliament and politicians. There is no doubt that we rank on the level of used car salesmen. I think some of that is well earned, but then I say, "Hang on, given the society we live in, what are other people contributing?" As I say, my basic view is that you get the Parliament or member of Parliament that you deserve, whether it is Labor, Liberal, Democrat or whatever.

In my area, 108,000 people live in the electorate—80,000 voters. Membership of my branches is only about 600—580 members qualified to vote. Whoever got endorsement, it is a safe Labor seat. It is nice to be in a safe Labor seat. You have your fight over preselection, and it is a lot easier than living on a 1 per cent or 2 per cent margin. My margin is 10 per cent. But it then allows you to do other things in terms of the Parliament. Because I have a supportive branch structure, because I still go to my 15 branches and my Young Labor Council and my Federal Electoral Council whenever Parliament is not sitting, because a lot of members of my family are in the party, my home base is secure, and because we have a rank and file system in New South Wales, I do not have to worry about the central executive disendorsing me.

It is then a question of what are you going to contribute to the Parliament? Now, in the second term, I was fortunate enough to be elected as chairman of a House of Representatives Legal and Constitutional Affairs Committee, and I am also on the Procedures Committee. The Procedures Committee brought down a number of recommendations in regard to changing the procedures of the Parliament. Part of that was a rostering system of Ministers, which is something I do not agree with. I actually think that the Prime Minister and all Ministers should be available each and every day in the Parliament. They are not. I do not agree with it for a number of reasons, one of which of course is that our best weapon—and I have been quoted as saying it—is that it is like selecting Bradman in a cricket match and asking him to go out, rather than bat because he would ruin the game, and sign autographs on the hill. The Procedures Committee also made some other recommendations, including some recommendations in relation to committees. Traditionally, the Senate has played the leading role in scrutinising Government legislation. That was as a result of the Murphy experience of the early seventies. The House of Representatives, because it was a House where the Government has a majority, did not have a history of criticising legislation or even having legislation referred to it. That changed with the Procedures Committee.

The committee that I chair has a number of eminent people on it: Michael Duffy, a former Attorney-General, Clyde Holding, Wendy Fatin, Peter Staples—former Ministers in the Government—Ian Sinclair, former Minister in a conservative Government, Daryl Williams, QC, former shadow Attorney-General who was only recently elected to Parliament. They are some of the members. In terms of looking at Government legislation, we have actually looked at it fairly rigorously. We have not split on party lines. Our reports are unanimous reports, in the main, with one or two minor little exceptions.

The first Bill that we got was a Child Sex Tourism Bill. It was a Bill that made it an offence to engage in sexual conduct with a child under 16 outside of Australia. It made it a

criminal offence, and you could be tried within Australia for that. It was pretty radical. It arose because one of our Ministers went to Asia and thought it was a good idea to tell the Asians that we would be their policemen. There was broad party support, cross-party support, for that Bill. The problem was that it was a Bill that was drafted within the Attorney-General's Department. Whilst I have enormous respect for the Attorney-General's Department, the instructions it received were appalling, because what they basically said was that where there was a problem, they would legislate in effect to do away with that problem. So because of the number of offences and the ages of the children involved, you had a situation where there was a clause in the Bill that said that where the jury is unable to estimate age because there is insufficient evidence, then it could guess. There was also another clause that said that if the jury was going to acquit and it was obvious to the judge that it was going to acquit, the charge could be withdrawn from the jury and the judge could issue a fresh trial with fresh charges. So we were going to deny people the right to an acquittal by a jury. It was really low grade stuff.

It would have been easier to give it a bit of a tick because, unfortunately, there are not many people in the Parliament who really have a knowledge of criminal law and procedure. The committee did not do that. It produced a unanimous report. On our first day of sittings we had to suffer a press release from three Ministers condemning us for watering down this legislation and siding with paedophiles, because in our cross-examination it was obvious that the draftspeople just did not have a clue about the ramifications of what they were doing and had never been in a court of law.

We produced a quality report. Again, the day before the report was tabled in the Parliament, the Minister went into the background of the age and said, "This upstart committee will get its comeuppance when it tables its report; we intend rejecting the recommendations and just proceeding with the legislation." That report was a quality report—probably the best report I think that any committee has ever produced. That comes from others, not myself. We had 33 recommendations. They substantially altered the legislation. I think 30 and a half of those recommendations were picked up. We did it in such a way that people could get a fair trial but people could also be prosecuted and convicted according to the evidence.

That was unusual for a House of Representatives committee. It was able to be done for a number of reasons. Firstly, the personnel on the committee; people were prepared to stick and not play party politics, and that is the key. If you want a role in terms of review as a backbencher, then you lose that role in terms of having any impact if your committee is going to break up on party political lines or score cheap political points. The other thing, of course, was—and this is my view in terms of the way the Parliament should operate—we had a network of experts and professionals and practitioners who we were able to bring before our committee to give us evidence, and substantial evidence, on each of the clauses of the Bill and how it impacted in real life. It became very obvious that the bureaucrats, and indeed the politicians who gave them the instructions, did not have a clue about the scheme they were setting up. We were under a deadline, so any legislation was good legislation. There is no doubt that the prevailing view was, "Look, we just want the legislation. It's not as if anyone's ever going to be prosecuted under it." That is not good enough for Parliaments.

What has happened since is that we have also looked at other pieces of legislation, and a lot of our recommendations have been picked up. There has been a War Crimes Tribunal Bill based on Security Council resolutions where again the committee unanimously said, "Hang on. We don't want to just follow what the Security Council resolutions say holus bolus and give up basic rights that people have within an Australian jurisdiction." Again, the committee's recommendations were picked up in the main.

We have just produced a report on section 53(3) of the Constitution which is an exposure draft where we recommend a compact with the Senate. That clause says that the Senate may not amend any proposed law so as to increase the proposed charge or burden on the people—simple words but a complex section. We had a seminar with noted academics, a number of days where we had the Clerk of the Senate, the Clerk of the House of Representatives and eminent constitutional lawyers come before the committee and give us evidence. That will be a matter of negotiation now with the Senate, because the Senate also is doing a similar term of reference.

I use these as an example to say that I think the basic structures are right. It is a question of how you use the structures. I am disturbed in the legal area at the lack of practical lawyers or practitioners who are now in the Parliament. We have an election campaign in New South Wales taking place now. Law and order is a big issue, and you have the lowest common denominator running the show. You have someone like Alan Jones running law and order as an issue, and because of television and misrepresentation, the politicians are running at 100 miles an hour because there is an election around the corner.

Now we have the situation of "three strikes and you're in" and all this other stuff. It is serious stuff that is being dealt with on the run, and both sides are guilty of it—Labor and Liberal. Those of us within the Labor Party are appalled at the way in which our party is handling it, and again you have to say to yourself that part of the problem is that our legislators really do not understand that there are not, in terms of the Labor Party or the Liberal Party, many practitioners in the Parliament, and so they are responding to political solutions. So, in terms of our Parliament and our democracy, the press has a lot to answer for, and that is an issue that needs to be addressed.

We sit down and we talk about a Bill of Rights and say, "Is a Bill of Rights the answer?", because we do not basically have a Bill of Rights. Gough Whitlam always rings me up and says, "Comrade, we have to reintroduce the 1984 Bill of Rights." My only fear with it is that, given the sort of climate we are in at the moment, what was introduced in 1984 would not be what was introduced today. The argument is not whether we have a Bill of Rights; it is what is in it. How do we determine what is in it? Is it what Alan Jones and John Laws want—and I do not know who the popular radio announcers up here are—or is it what the *Courier-Mail* wants?

The difficulty is also that, from a politician's point of view, I have found that in terms of the role of Parliament—and I am only talking as a backbencher—it is very difficult to take on the bureaucracy and the Executive, because it is a battle for resources and for information. There are 30 ministries. There are 30 backbench caucus committees. There are 30 parliamentary committees. There are not enough hours in the day for one to be across everything. In my five years in the Parliament, rightly or wrongly, I have actually specialised in the legal area and used the network that I have had as a practising barrister to buttress me up against the Executive and also to not merely take a negative attitude but to change the culture, and it has changed the culture.

The present committee system in the House of Representatives is actually starting to look at legislation, and Ministers are starting to accept that they do not have to be precious when it comes to their legislation, because we have showed in some instances where there have been flaws in the legislation—not deliberate flaws but genuinely bad instructions based on bad advice. I remember the debate on the Native Title Bill. If you go through the legislation and if you go through the press clippings, there is no doubt that the Government was moving to suspend the Racial Discrimination Act, because it was felt that that was the only way to guarantee certainty of title for the pastoralists and the miners. That did not happen in the end, notwithstanding the fact that there were three Cabinet meetings on the issue and the principle of suspension had basically filtered through the Cabinet. What happened was that alternative advice was presented to the Government at the last minute and another approach was adopted wherein the Government could use special measures under the Racial Discrimination Act to achieve what it wanted. I have no doubt that when the High Court brings down its judgment in the next month, the approach that the Government took will be upheld.

That is another example to illustrate—and I suppose this is the thrust of what I am telling you tonight—that the politicians cannot do it on their own. The structure is there, but a lot of things work against us. Because I am a full-time politician, I no longer have practical experience in the criminal law area. I need the support of the community, the academics, the lecturers and the practitioners if I am to effectively scrutinise any legislation that comes across my desk. In that sense, we need more people in the Parliament, not walking away from it, who are prepared not just to challenge for challenge's sake. There is certainly an advantage in the Government not having the numbers in the Senate. In Queensland, you have the best of all worlds, in the sense that there is no excuse for the Government you elect not to implement its mandate because it has the numbers in the Lower House. I am not here to endorse the Queensland Government one way or the other. In the end, the Goss Government will be judged on its achievements, and frankly I am still looking for them in some areas. But then again, maybe I am too harsh. Who is to blame? Not the Government, but those people involved in the Government.

In terms of the battle for ideas, I believe that the Executive and the bureaucracy are streets ahead of us, because they set the timetable. They have access to the information, and then it becomes a rearguard fight. That is one of the reasons why I actually admired the Whitlam Government—and I will finish on this point, because I do not want to dominate everything. I saw a documentary on the Whitlam Government which included a little clip in which Gough made the comment that he had ticked off another section of the ALP platform that the Cabinet had just implemented. I thought to myself, at least that was a Government that actually believed in something and was implementing its party platform, and I have not seen a Government do so since. However, I have seen Governments tear up sections of their party platform.

I have no problem with Governments being elected and de-elected. I do have a problem with Governments being elected on one issue and then walking away from it, or being elected and, in terms of the way the structure operates, preaching inclusion but not letting anyone near the show. The reality is that up here in Queensland and in Canberra, three or four people run the show. People talk about abolishing the Senate or abolishing the States. My preferred system is to get rid of the Senate and get rid of the States and have regional Government, an expanded House of Representatives and an expanded committee system. I think there are advantages to that. There are also disadvantages, but at least at the end of the day a Government can be dealt with on its record.

As a Federal Government, we have an alibi—we can always talk about the nasty Senate. Fancy relying on two fruitloops from Western Australia to get your legislation through in terms of a Budget decision or whatever! It is impossible. And yet, in fairness to them, they have a constituency. The Democrats have a constituency. The Liberal Party has a constituency. But as I say, that is my view. I think we are very fortunate in Australia with our system of Government. I think it has served us well, but that is not to say that it cannot be improved.

I look forward to the day when we have a republic. The problem is that, with John Howard as Leader of the Opposition, I do not see it in my lifetime, because it is something that will require consensus. Our forebears have set up a Constitution that is so hard to change that we had basic referendums in 1988 that started off with 75 per cent support and ended up with 35 per cent support on voting day because of misrepresentation, and why? This is the basic tenet of my speech. Unfortunately, ignorance breeds fear and breeds conservatism. We need to raise our consciousness and awareness of our structures and participate in them, because in the end, all that can happen to you is that you get voted down. You do not get put in gaol. If I become too much of a critic of my Government or if what I am saying is extremely unpopular with my constituency or my party, what happens to me in the end? I lose my seat, and I get to go back and practise at the Bar. Big deal! That is the ultimate sanction.

That is the message that I leave with you. It is not as bad as I am saying. However, we ought to attempt to raise the quality and raise the standard. When I visit schools and talk to young children in Years 2, 3 and 4, I see their tremendous enthusiasm. When I talk to students in years 10, 11 and 12, I see their tremendous cynicism. I believe that that is wrong in a country like ours. There is no need for it. Women, migrants and the community should claim their rightful place, and that is in the halls of Parliament, haranguing their representatives and making sure that we do have a better society—a society that is accountable to the people. Thank you.

**Dr SOLOMON:** Thank you very much. I am sure that Daryl raised many questions that will be specifically put to him a little later. For example, it is nice that all of our basic structures are right, but then he recommended overhauling everything! However, that will be for later on. In terms of questions, perhaps Senator Kernot might like to start off with whether Queensland has the best of all possible worlds.

**Senator KERNOT:** Thanks, David. The answer to that is clearly, "No." I liked the comment regarding the Government having no excuse not to implement its mandate. We can look quite clearly for the evidence in that regard, and it is not there.

In attempting to come to a conclusion about tonight's topic, the role of Parliament in Australian democracy, I will confine my comments to two areas: firstly, the pressures on Parliaments and democracies; secondly, the nature of representation. I agree with Noam Chomsky that this is a dangerous age for democracies. If we consider the changes that are occurring in the world, we should ask ourselves why we think Parliaments or democracies would be immune from them. Take the way in which national boundaries are becoming increasingly irrelevant. Daryl talked about John Laws and Alan Jones. Those men are networked throughout Australia now. Just imagine if we wanted to network them internationally! Those two men already have tremendous power, so much so that somebody like Charlie Perkins feels that they are having a huge effect on the way Australians feel about Aboriginal and Torres Strait Islander issues. That is the first point—national boundaries becoming increasingly irrelevant.

The second point is the internationalisation of the economy, the way in which capital and resources flow freely between nations, and we can see that the direction of the flow these days is to where labour is cheap and where environmental standards are pretty non-existent. Look at mass media and telecommunications; look at the sort of depressing message that they are sending out. It is a message of sameness and commercialism. I believe that these things eat away at national cultures and identities. We also have cyberspace. We are all discovering that there is another dimension out there called cyberspace, and that is

generating an incredible flow of information which one could argue is almost beyond the reach of Governments. What will that mean for Parliaments and democracies? Everyone in Canberra is worrying about Kerry Packer and Rupert Murdoch, when all the while out there we have satellites and telephone lines—things that Governments just cannot easily control. We are trying to legislate about what people can see on a bulletin board, but as to trying to stop satellites putting their footprints down in places—what can little parliamentarians do about that, and what does that mean for the evolving nature of democracy in the centuries to come?

I guess what that all comes to is that it is a bit of a worry how little control Governments have over the way in which money and information are shifted around the world. What do you think the Barings episode taught us? It showed us just how little control we have over a handful of international speculators whose wheeling and dealing has the potential to bankrupt entire nations. We can pass all the laws we like, but one person was able to demolish an entire bank. In the face of all of these trends—and one can put a positive side on internationalisation—it is much harder to convince people that it is worth striving for a system of Government which is fair, effective and responsible.

I do not know whether people here ever read the *Age*, but Ken Davidson made a brilliant comment in the *Age* this week when he posed the question: what should we make of a society that confers its highest material rewards not on those who perform a genuine task directed at bringing together labour and capital to create wealth and jobs but to those who gamble on the movement of a financial index? That is the world in which many people are living. How will we say to them, "That old-fashioned concept called democracy, it is really an exciting thing, and Parliaments are really dynamic places to be." That is the competition, and that is why somebody like Chomsky says that the hallmark of societies like ours has been the abdication of rights by the majority of the population through the engineering or the manufacturing of their consent, and this paper talks about that a little bit. It means that in our society elections do not mean very much at all, and we are being indoctrinated carefully, over time, to accept that there is nothing wrong with a concentration of political and economic power in fewer and fewer hands. I believe that is the real challenge: how to say to people, "It is time to revitalise an interest in the democratic process, and it is time to revitalise an interest in developing a system which actually fosters and encourages political and social participation"—quite the opposite of just allowing an evolution of concentration.

Of course, what we want most of all is to encourage people to be active rather than passive members of society, but I have tried to indicate to you the way in which that is almost going against the grain of nearly everything else that is occurring around us at the moment. I believe that it is compounded by the fact that Australians do not actually sit down and think very much about what democracy means. We sort of think, "Gosh, yes, we are quite proud of ourselves. We live in a liberal democracy", but what does that mean? We have regular elections, but there is no serious challenge to the Government that is elected in between elections and no inconvenient appeals to the Supreme Court, as in Jeff Kennett's Victoria, for example. Is that democracy? If it is, then you are probably perfectly happy with the way things are operating. But if it is something more than that, if it is a system where ordinary citizens actually have the opportunity and use the opportunity to play some sort of meaningful role in the management of our society, then you would have to wonder whether we are moving further and further away from that understanding of democracy.

Although I congratulate whomever is the most appropriate person to congratulate on the production of this paper, I believe there is one issue that it does not address. It does not come to grips with the issue of what I have heard described as the black hole at the heart of democracy. It is a fine paper, but it is reasonably academic. There is nothing wrong with that, but it comes back to the question: who is going to read it? Who is going to respond to it? How are we going to make these things that we are talking about exciting to the average Australian? How are we going to convince them of the need to get involved in debates on these important issues?

We have to start by linking some of the issues with something concrete—some of the changes that we intuitively feel people want to see. For example, we are very prone to talking about constitutional change. I am just as guilty of that—and probably more guilty—as anybody else. I am always talking about changing the Constitution. I feel incredibly locked in by it. I feel that it was written for horse-and-buggy days or crystal wireless set days, when we are living in an age of CDs and beyond. However, as Daryl said, if you say to people, "Do you want to change the Constitution?", you can easily whip up a sense of fear. But if you say to them, "Are you angry about what is being done to the Australian environment?", often people will say, "Well, not enough is being done. Yes, I am angry. I am sick of them stuffing it up." If you say to them, "Well, if you are, what do you think about the idea of giving the Federal Government the power to act in the national interest on environmental matters? What do you

think? Wouldn't you like to give the Commonwealth the power to kick the States out of the way on a few selected things, like the future of woodchipping or cleaning up our coasts?", a lot of people would say, "Yes." But if you say, "Wouldn't you like to change the Constitution to give the Commonwealth Government environmental head of power?", they think, "What on earth is she talking about?" We need to present these sorts of ideas in a way which makes them interesting and attractive to young Australians.

On International Women's Day last week, I went to the Press Club to listen to Dale Spender. She made a couple of points which I thought were worth repeating. She talked about the decline of the power of print media. She argued that young people were no longer receiving the bulk of their information from printed material—there were computers, CD-ROM, the Internet, cyberspace. She argued that print was passe and it was no longer the best way to communicate with young people. But we have not harnessed that. We are just starting to talk about this in a very limited way, in a trial way, in a number of schools; yet kids are miles ahead of us.

I turn now to the issue of the nature of representation, which was touched on in the paper. Phillip Adams and others—and I agree with them—feel that the stranglehold of parties on the parliamentary process has contributed significantly to both a breakdown in the processes and an increase in public cynicism about those processes. Harry Evans, who is the Clerk of the Senate, is often quoted—and it is a quotable quote, I think—as pointing out that we no longer have parliamentary Government but party Government. We have a system where the electorate chooses between the big two similar parties at election time, and then the majority party controls the whole machinery of Government until the next election. This is a view of democracy that is rather closely related to the economic rationalist view of the world.

David talked earlier about Parliament becoming a political prize. Last year, I quoted extensively from some of the work of two people who were quoted in the discussion paper, Geoffrey Brennan and Alan Hamlin, because I believe that their view is fascinating and disturbing when they say that the basic idea is that control over the Parliament is the prize awarded to the winner of an electoral competition. Seen in this light, the details of parliamentary procedure are of derivative interest. Attention should focus on the electoral competition itself as the major determinant of political outcomes. Parliament is reduced to a window display of policy alternatives, and parliamentary procedure is reduced to window-dressing. In other words, electoral competition is the be-all and end-all, and the operation of that competitive process becomes the primary focus of the system and we all become obsessed with what the polls say rather than the polling, the issues and even the methodology.

We should talk a lot about the predictive capacity of polls to influence. I personally do not think that we should be allowed to have political polls in the last two weeks of an election campaign, but that sounds terribly authoritarian, doesn't it? But all of this some people call quaintly the public choice analysis of democratic institutions. I think it is just as intellectually bankrupt as economic rationalism. I call this the economic rationalism for politics. But it highlights the central dilemma facing our parliamentary democracy; that is, if Parliament becomes some sort of prize, we have to ask: how then do the functions become increasingly irrelevant, because between elections the Executive will simply run the country and Parliament may as well pack up and go home.

Whether you admire Paul Keating's skills or not, that is the sort of view that Paul Keating has when he mutters about getting rid of the Senate, and it is definitely the view that Jeff Kennett has when he dismisses criticism by saying that the Government should just be allowed to "get on with it" between elections. This approach has had two effects on the nature of Parliament in this country. First of all, it has shown that Parliament is not taken as seriously, the role of Parliament has been eroded, and Parliament has become a bit of a minor irritation. Prime Ministers and Premiers have to put in occasional appearances, but the rest of the time, they get on with the real business of running the country, and Parliament is a bit of a minor irritation. Secondly, and more seriously, one could argue that this attitude to Parliament has resulted in a shift in the role of scrutiny of the Government from the House of Representatives to the Senate.

I guess we all get the best view of life from where we sit, and from where I sit—in a bicameral system and in an Upper House—I actually believe that the Upper House and most Upper Houses play a very crucial role in a democracy. All the things that Daryl spoke of with some sort of new fascination—the idea of seeing flaws in legislation, of Ministers not being too precious about their piece of legislation—have been my experience in our role in the Senate from day one. That is a positive and constructive role to play. However, I will add the qualification that, depending on the numbers and the way in which the numbers operate, I believe that Upper Houses can embody the very essence of a democracy; that is, the right not

just to choose who is going to govern you but to have some opportunity to scrutinise, amend and even reject the measures chosen by those who are doing the governing. I believe that there are some danger signs in Queensland due to the lack of opportunity to scrutinise. There is a pretend committee system here. All those visits down to the Federal Parliament to look at how we do it down there did not result in the best features, in my view, being adopted up here.

I will just finish with a couple of comments from some American professors. The first, Mark Petracca, when talking about the professionalisation of politics—and I think that Daryl was hinting at this a little bit—said that the professionalisation of politics is incompatible with the essence of representative Government, and the professionalisation takes us further and further and further away from participatory political processes. An American historian, Daniel Boorstin, argues that the professionalisation of politics threatens to undermine what he calls the vitality of the amateur spirit, and he says that it is that spirit and its amateur nature which is really important for the survival of American democracy. Boorstin says that amateurs are being excluded and alienated from the political process; the process is becoming more and more removed from ordinary people, and it is becoming more and more the province of a kind of class—and I think this is happening in Australia—a class made up of professional politicians, political journalists and lobbyists. One has to ask: whom do they most represent? That is a bit of a dramatic view, but it does point to some of the real dangers which lie behind the push for Executive Government at the expense of parliamentary democracy.

The last point I would make is that I was really delighted to see in the discussion paper mention of the implications for democracy of privatisation, because I believe that this could well turn out to be one of the most significant issues of the next decade. Its link with democracy is this: as public sector services are corporatised, the public loses its ability to demand accountability and fair and open processes from those services. For Governments, it is a matter of "Get them off the Budget, get them away so that we do not have to have all this scrutiny and we can get rid of them as a Budget item in terms of finances as well". But with corporatisation, increasingly we are seeing secrecy, the suppression of information and a reduction in accountability.

These days, when you open your mouth to argue the case for the public interest—whatever that is, because in my view it has been so bastardised—chances are that somebody will shout back and say, "No, not this time, because there is commercial confidentiality", or, "There is public interest immunity." It is a funny concept, isn't it? Immunity from the public interest—think about it. So, I just think that, in an era of Governments privatising anything which is not bolted down, these are issues which do cut to the heart of democratic and parliamentary accountability. But I agree with Daryl. Probably the most important thing we have to do is develop and sustain a parliamentary process in which all voices, including alternative voices—from within and without—can be heard, but the biggest challenge of all is to convince Australians of the need for them to be involved in that discussion. Thank you.

**Dr SOLOMON:** Thank you very much. Actually, I was fascinated at the end there when you were talking about privatisation. I wonder how much the Parliament would fetch and how it would behave if it were suddenly owned by the private sector. I was fascinated also by the question of direct democracy, because one of the questions that does emerge, though not all that clearly, is the question of the extent of citizen initiated referendum, etc., given the fact that you do not want polling in the last two weeks before an election. On the other hand, maybe it is the existence of public opinion that acts as some sort of brake on a Government which has only one Chamber. However, it is not for me to ask the questions, it is for you. Who would like to ask the first question and of whom?

**Mr B. Scott:** I have a question for Cheryl in regard to what I think is the essence of what she is talking about, and I will relate it to the Australian Democrats. My understanding of how the party worked initially is that there was quite a lot of flow of information from the leaders out to the grassroots people and then back up to the top to help you determine courses of action. I have been a party member for about 35 years and I understand fairly well how that party works and I worry today about communication from the grassroots.

**Senator KERNOT:** A party member of what for 35 years?

**Mr B. Scott:** Well, I have been a member of a political party for that long, and I worry today about the thing that Daryl was talking about. He was able to point to a Prime Minister who could point to part of the party platform and say, "We have adopted that, comrade." Does the democratic party of the Australian Democrats still work with that democratic type of information?

**Senator KERNOT:** Yes, and let me tell you that it is not as easy as we thought it was when we started. Democracy is very time-consuming. But we do; we elect our leaders

through a postal ballot, grassroots members, unlike the other parties who delegate it to members of Parliament. We are working to streamline that process because it can take six weeks and, as somebody pointed out to us, what do you say in the meantime—"Sorry, we're just trying to work out who our leader is. We'll be six weeks and then we'll be back into the action"?

On policy—we have streamlined that, as well. We still have the bottom-up approach, which is the initiation of draft discussion papers and specific policy items, but we have moved to a vote on the principles and an opt-in on the details because we found that so many of our members were saying, "I am not an expert on in-vitro fertilisation. Please do not ask me to answer 70 questions on the detail of that. But I do have a view on the principle." So we have moved to do that, over the last five years in particular. But I would be the first to agree that it can be a time-consuming and cumbersome process. However, I think it is heaps better than taking no notice of what your members think at all, and I think it is still better than a quasi system—what do they call it in the Liberal Party, a new policy? What is it called—a policy compact? No.

**Senator KERNOT:** They have a new system—which Robert Hill was meant to be in charge of—which was, "We will listen to you, but we don't have to take any notice of you." So it is one step from not listening; it is just saying, "We're going to recognise this a little bit more formally." It is like Alexander Downer said on the People's Convention—"Yes, we will have a People's Convention, but we won't take any notice of what they say because we've already made up our minds; we don't want a republic." The two-way process, while flawed, is still a little better, I think, than what some of the others have on offer.

**Dr SOLOMON:** I have been instructed that questioners should give their names, please. Who is next?

**Mr K. Scott:** My name is Keith Scott. At the risk of straying slightly off the topic—I just cannot resist asking it—your constituency must have changed incredibly since Don Chipp's day, when you broke away from the Liberal Party, for you to be espousing the views that you have just espoused?

**Senator KERNOT:** Was that a question? I can answer that. You cannot win with the Don Chipp one. You get screamed at by international socialists who will never let you forget that Don Chipp was your founder and you get other people who say that you're not small "I" Liberal in the way that Don Chipp was. You cannot win. But in terms of owing no allegiances and having no affiliations with either big business or big unions, we have not changed at all, and that was his rationale for starting the Democrats. Secondly, the concept of having a so-called conscience vote or a free vote on all major policy issues still exists. What we found, though, is that we have been around long enough to have a core of people who essentially share the same values, and we disagree rarely. We have voted differently, but mostly on procedural things. I think under Janet Powell we were probably more clearly a Leftist party. I hate those tags, but you know what I mean.

If you do an analysis of the opinion polls at the moment, you will find that a few have been done on second preferences. These polls escape most people's notice, and understandably so, but for people like us who look at them, they have shown that, in the past, of people who voted Democrat, 60 per cent identified that they would give their second preference to the Labor Party. In the last 18 months, the second preference polling has shown that people who identify as voting Democrat 1 are now showing that they would choose to give their preferences fifty-fifty to the major parties. Now, that says something about where people see the positioning of the party now. You can draw your own conclusions about how you would compare that with Don Chipp's days.

**Mr MELHAM:** I have asked to come in on this one as well because I think it is relevant to the other parties, too. I think the Labor Party that I am a member of now is different from the Labor Party I joined in 1974, and I think that is true of the Liberal Party as well. I think that has something to do with the evolving nature of the society in which we live, the changing society in which we live, and the personalities who are involved in the process as well and the way they have impacted. The Labor Party in Government has done things that none of us ever dreamed of, and I now look at the Liberal Party under Malcolm Fraser in a different light than what it would have been under the current leadership.

I also think it is applicable to the structures that we are talking about. When the Constitution was framed, the Senate was a House of review on behalf of the States. As a result of the party system, that has changed. The electoral method of electing senators has changed. Before, you used to get States electing all the senators the same, because it was a different voting system. It has been proportional representation since 1949. That system was introduced because I think Caldwell, who was a shrewd numbers man, thought that, by

expanding the Parliament, getting more senators and changing the voting system, they would be able to dominate the Lower House and the Upper House.

So that is the other aspect of it. I think that you cannot talk about what were the Democrats, or what are they going to be, or what was the Labor Party, or what is it going to be. It is the same with the structures. If we had a breakdown in caucus solidarity, for instance, then the Parliament might operate differently, because one of the suggestions in the paper is that we really should only be bound as members of Parliament on core things and be free to vote on other things. I think the dynamics of a Lower House or an Upper House would be very different. The senators do not vote along State lines any more; I do not think they ever have. That is why I wanted to come in on that aspect as well. I think the Democrats were a bit different under Don Chipp than what they are under Cheryl Kernot, and I must say that I prefer them under Cheryl Kernot.

**Mr Thornton:** Two throw-away lines that the speakers said intrigued me. Firstly, Daryl, you mentioned that you would like to see the Senate done away with and the House of Representatives expanded. I would like to know how you would like to see it expanded and whether you would consider having alternative voting systems. Secondly, Cheryl, you cast aspersions on the Queensland parliamentary committee system. I wanted to know what features of the Senate committee system you would like to have seen incorporated in the Queensland parliamentary committee system.

**Mr MELHAM:** My preferred option is going nowhere, but if we were to do away with the States and have regional government and do away with the Senate, we could not have constituencies the size that we have at the moment. What I would see is a massive explosion outwards in the number of Lower House representatives. At the moment, my constituency is 80,000 voters and, say, 108,000 who actually live in the electorate. It is very difficult to service that electorate with three electorate staff. It is easier being in the city as against the regions. There are about two and a third State members per Federal seat in New South Wales, so I would see basically the size of State electorates returning, say, a Federal member to Canberra. So instead of a House of Representatives of 147 or 148, you might have, say, 300 members of the House of Representatives, so that we all have constituencies of, say, about 35,000 or 40,000 to 45,000 voters. That gives you community contact, a community of interest—a much more expanded system. I think it would also allow, in some areas, Independents to get up and people of other different political persuasions, and then a committee system. That is what I was thinking of in terms of abolishing the Senate. Then you would have, in Queensland and New South Wales, a very expanded regional system of Government at a local government level. I just cannot see the need for a Federal Minister for Education and a State Minister for Education, etc., etc. As I say, that is my preferred model. I do not see that ever happening, but I thought I should nail my colours to the mast.

**Senator KERNOT:** Despite the fact that I am in the Senate, I would not mind seeing regional government and a different kind of Upper House. I think States are anachronistic. They are just lines drawn on borders and they are duplicators, channelers of Commonwealth moneys with which I think we could do so much better. I actually think one of the wonderful hidden agendas, although I do not think it is the hidden agenda of Wayne Goss or Jeff Kennett because they do not—they might have more in common than I thought, actually. However, the by-product of amalgamation of local government for economic reasons, the rationalising of the size of local government and the creation of super cities, is going to be areas large enough to be regions. So while we will not be able to say, "Abolish the States", we will be able to say, coming at it a different way, "We actually have regions big enough now to start challenging the role and function of the State as we know it." I think that that is a good thing.

What features of the Senate committee system? Unfortunately, the main thing we need is more than two parties because in the Senate we have balance of power represented, reflected, in the composition of the committees and that makes the committee system more dynamic. You do not have the Government automatically chairing every committee and you do not therefore predict, "I know what the Government will say on this matter." We have the chairs of the committees divided up proportionally on the composition of the parties in the Senate—that is one thing. What I would like to see, though—I think this has been an innovation which is a sensible one—is that we have decided the way the committees work into two. We have said, "This committee"—the economics committee—"will have a reference function", in other words, a policy function—time to gather information, speak to experts and make some policy recommendations.

The Economics Legislative Committee actually has parliamentary Bills referred to it. We have a convention in the Senate that if any party has a problem with any particular Bill, it goes off to what is called a Friday committee, and we call witnesses and Ministers come with

their bureaucrats and answer questions about particular clauses. When it works properly—when it is not hijacked for the usual political reasons—it really is a very efficient way to work. I think one of the problems with the way it used to be is that all of the aspirants in the parties in Government who do not get Ministries or parliamentary secretaryships find that the next step down in the career path is a parliamentary chair, and they are less likely—with Daryl Melham being an exception to this—to refrain from doing the Government's bidding in terms of the recommendations that they write as a majority committee.

I would like to see the Senate actually have a serious discussion about an exchange of powers. The Democrats will not block Supply. I know the first time I stood as a candidate I signed a statutory declaration saying that I did not believe it was the role of a minority party to block Supply and bring a Government down. I still believe that. Having been there, I believe it more passionately. However, I do think it would be good for us to look at giving up the right to block Supply in order to gain maybe a greater sense of power and authority in terms of review, in terms of scrutiny and in terms of policy making. There is a long way to go on that, but I think it is worth thinking through.

Of course, I think when our Estimates committees are not being "Bronwyned"—which is a word like "Jeffed"—they can play a very valuable role, too, in legitimate scrutiny of Government expenditure. Of course, the Auditor-General, in conjunction with Senate committees, means that there is a pretty good look being taken regularly at what the Government says it is going to do with its money and what it actually ends up doing, and that is a healthy thing.

**Dr SOLOMON:** When I first started writing about Parliament and about the potential of Senate committees as a journalist 30-odd years ago, I must say that I never thought I would ever hear someone say, "We have a convention in the Senate about the way in which committees operate". I think it is marvellous.

**Mr Land:** My question is to Daryl. There are two parts, Daryl. How many fruitloops control the factions of the ALP, and who elected them and with what majority? The second part of my question is: are you aware of the Constitutional provisions in relation to the example you used on Education? How many schools are controlled by the Federal Government? How would the Federal Government control schools on a day-by-day basis?

**Mr MELHAM:** On the second question, we control schools because, in terms of capital works and infrastructure, it is the Federal Government that supplies them. If you want to screw schools, don't give them money, and if you want to be a deficit dalek, that's the first thing that you'll cut back at a Federal level. I went to a school in my electorate the other day where the Federal Government gave \$1.35m, but we had the State Minister, Virginia Chadwick, and the State's contribution was \$280,000 in terms of infrastructure in the school, and because there is a State election looming, she was top billing and running around as if the Feds did not exist. The same thing happened two weeks before. Another school received \$600,000 for infrastructure for capital works. The Federal Government gave \$120,000—the same thing. There was a flash opening and the Minister turned up. The State member was not even invited because he happens to be of a different affiliation, but there was a Liberal candidate there. So the Federals have got a stake in education, don't you worry about that. You don't have an education system without us. You can go and teach in tents. So that is where we have a stake in the system now; it's a partnership.

There are a number of other examples in relation to other levels of Government. Up here in Queensland, your health system has been subsidised by the Feds for years. I am not knocking that. I am just saying that if you talk to State members, then you would think it was all a State thing. This Canberra bashing that goes on—frankly, there would be no infrastructure if it wasn't for the Feds. You will see that in a few other areas.

In terms of the fruitloops—I have to say that the Labor Party, the Liberal Party, the Democrats, we all have them; they are in society. My definition of "fruitloop" is different from someone else's. If you have someone who is passionate and committed, then I think there is a place for them at the table as well. What I find frustrating is that I didn't know that people could be so pure. I remember talking to a particular Independent, who is now in the Federal Parliament, who used to be in the State Parliament, panicking after the last State election because he was being contacted by the Independents who were going to control the balance of power. It was the first time ever that they actually had to make some decisions about which way to jump, amongst other things. At least with the Democrats under Cheryl Kernot, whilst you might not agree with them, you sit down and you enter into an arrangement and they don't sell out to the next highest bidder. The reason I have no time for the Greens—and I say it to their face—is that you sit down, you think you have come to an arrangement, and then

they go off and it is as if you did not meet with them. After the hours that you have met with them, it is up for the highest bidder.

As I said, it is all internal definitions. I reckon some of the great power brokers, some of the great myths from New South Wales, were fruitloops in terms of the way they dealt with people, but they were fairly successful. That is my definition of it. I think it is something that is in the eyes of the beholder—it really is. It is not confined to Greens, the Right to Life, the Labor Party or to anyone. I think, in the end, you are judged on your record.

The two senators from Western Australia have an absolutely pathetic record in their dealings in Canberra. What is happening is that we are now dealing with the lowest common denominator. That used to be true in some respects of other people in the Senate, but it has changed. What has happened is—and I have this trouble in terms of the Left because I am in the Left faction but I am in the soft Left faction, not the hard Left faction—then there are all these labels and you say, "What is this all about?"

In the end, what politics is about is people, and you do have to make compromises. You have to sit down and look at achievements on the board. Some people say, "You're a fruitloop because you have sold out on your principles." I do not want to name the names in the Labor Party—some of them are there, some of them are not there. It is all in the eyes of the beholder. I have a value system, and your value system might be different. So your definition of a fruitloop is different. But the beauty of it all is that we can use these words. It is really interesting when Keating is there for question time, or whenever, to watch visiting parliamentarians from other countries watching us. They are fascinated by it. In the end, it is only a war of words. We are not ruling with the barrel of a gun or anything like that. That is why I was saying to you earlier that the Chamarettes and the Dee Margetts have a place in our society, in our parliamentary system—and this is one of my criticisms in terms of the Senate—but we now have one person in the Senate who has never been to the people, that is, Chamarette. She is holding the balance of power. She replaced Joe Valentine who was, in my opinion, probably the best Green senator they ever put into the place, and very passionate. Yet, Chamarette, who has never been to an election, is running the show. She is running the show, especially since one of the Labor Party senators quit over woodchips. It is an intolerable situation. As I say, I do not mind coping it in the neck on superannuation or anything else if we were being held responsible, but when you have to negotiate your legislation through the Senate and deal with people like that, I am telling you, it is not a nice thing. I do not know how Gareth Evans does it. I couldn't do it.

**Mr MELHAM:** It's called democracy, but also, in some respects, it is an abuse of democracy. I do not think it is democratic that, in New South Wales, Elaine Nile and Fred Nile can hold you to ransom, because I think their constituency in some respects is so small, but you have to deal with them. There are other benefits of that. There is no perfect system. When I said to you earlier that the structures are fine—but then again I was recommending changes in the structures—it is how you use the structures, it is who you elect. Don't come and tell me that we have sold out everything and the Greens are fantastic, or whatever. There is more than one issue which you have to deal with as a member of Parliament. When the Greens keep abstaining on a number of issues, with tragic results in terms of Government legislation, you have to shake your head and say, "That's not democracy; it's a farce, it's an abuse of democracy."

**Senator KERNOT:** I asked if I could have a couple of words. As to the first part—how could the Federal Government control schools—I would see the role of a Federal Government in policy making, in setting national standards. I think that it is crazy that, in 1995, we do not have some sort of agreement in a very mobile society on handwriting and on core curriculum. Why don't we? Because the States can't agree. We should have it. I see a role for the Federal Government there, but I see a role for local communities in deciding on delivery of programs in a way which best suits and reflects local needs. That is how I would see the division of powers there. It is not just about money, but money is important.

On the matter of fruitloops and democracy—I saw you dismiss what Daryl said, so I will just give you a couple of examples. I am not sure that holding up a Budget for 52 days is responsible or democratic. Just use that as an example. Applying chaos theory, as a psychologist, to the way Parliament works; a personal belief that it is only in chaos that you are forced to confront the personal responsibility that you must take for each decision you make and each vote that you cast in Parliament. You have to ask yourself: what sort of an approach is that to Parliament? You might think it is legitimate. It is an approach process. I think there is product differentiation in the way you approach process. You can say, "Basically, I accept as a minority party that a Government has been elected and within reason it has a right to put down an agenda," but, my goodness, I will hang on to my right to say, "That is really unfair and I am going to amend that one", as we did with the 1993 Budget. It is

a world view, which says, "That is what I am saying and what I believe", or probably a slightly more anarchical world view, which says that it is really better to challenge and push all of the structures because they are wrong in the first place. We have both of those views represented in the Senate.

Now, the bigger problem comes in a shared balance of power because to get a Budget or important piece of legislation through the Senate, the Government now has to deal separately with seven Democrats, two Western Australian Greens, who sometimes insist on being treated independently, a Brian Harradine and now a John Devereux. It is all well and good to say that we all have a kind of constituency, and we do, but the Government has to find a way to get nearly all of those votes. What we have seen is cross-trading on issues. That is the American style of politics, which I personally do not like. If you can be bought on one issue—"You do this for me and I will give you a forest package"—where will it stop? What does the Government have to put in place in order to buy just enough votes for stability? Bob Brown is running for the Senate, too. He is another potential candidate in a balance of power equation. Balance of power is hard work. Split balance of power is quite difficult, and it just has other implications which I think people ought to be aware of.

**Dr SOLOMON:** I have not heard anarchy described before as applying chaos theory. Ken, did you want to comment on education policy?

**An audience member:** No, only to say that the States have eventually agreed on a core curriculum without the intervention of the Federal Government, but nevertheless it took them probably three times as long as it would have done without the power of the Federal Government.

**Senator KERNOT:** We have not got it.

**An audience member:** I have a question for both of you about the televising of Parliament. Many of us advocated it for so long. I did because I thought it would finally restore Parliament back to the centrepiece of democracy and at long last the fourth estate would help us to bring Parliament back into the limelight and to the foundation that it should be. I think it is fair to say that the bulk of us have been very disappointed with the results. This gets us into a debate about the gallery, I guess, and the argument about whether they are theatre critics or whether they are political analysts.

I think one would have to say now that the experiment has been a dismal failure. Our young people are cynical, as Daryl said, and this is one of the reasons. The behaviour that they see is just appalling. We have kids in our schools calling each other "scumbags" and "weasels" and heaven knows what each day after having watched question time. Regrettably, at the moment you probably find that most informed citizens are arguing to cease the televising of Parliament because it is bringing disrespect on the institution. Will we do that, or do you think there are some reforms that could be made or some guidelines or procedures that could be established, or will we simply have to have a code of ethics on the behaviour of politicians? If there is one thing that is bringing Parliament into disrepute, I think that is probably the most important one at the moment.

**Mr MELHAM:** I agree with you totally. There are actually different rules in the House of Representatives and the Senate in terms of televising and retelevising, and that affects us because a lot of material—for example, where points of order are taken, etc.—is edited in question time. We now do not have live televising of question time. Because Keating and the Government delayed question time till 3 o'clock, it was felt by the ABC that *Sesame Street* was more beneficial than question time, and I actually agree with that decision.

It might change with the advent of pay TV, because you might have a dedicated pay TV channel. The difficulty is that you are right—in terms of television and what they are portraying, they are interested only in the ratings and a bit of theatre. As a result, they take a lot of stuff out of context. From listening to us this evening and from what people see on the television, the impression is given that we are at loggerheads all the time, and the truth is that we are not. A lot of legislation is boring legislation, committee work or whatever. There are speeches. We have now set up a main committee room, where non-contentious legislation is debated, and that is a very civil and courteous Chamber.

With the advent of pay TV, if there is a dedicated TV channel, then people will be able to see a different picture being beamed out of the national capital, not just the question-time picture. But I question how many people would want to watch it. I receive a lot of feedback in my electorate. I actually believe that the number of people who are watching it is higher than the ratings are reflecting. The number of people who come up to me and say, "I saw your ugly face on question time", or, "You were asking a question", even though it is on late at night, just amazes me.

You are right. That is the problem that we are having as politicians, even in terms of the message that is going out into the community, because all people hear is Keating saying "scumbag" or making a burbling sound with his lips or whatever or Howard in reverse or Peter Costello referring to Michael Lee as being home alone without adult supervision and things like that, and that is good theatre. Unfortunately, that is the sort of coverage that Channel 9 and all of them are now interested in, and our attention span is reduced. It is a 30-second grab. The best politician I ever saw in terms of the 30-second grab was Neville Wran. He invented it. That is what question time has actually turned into. I watch it of a night and think, "Is that the same place I was in this afternoon?" It is totally different, because you are getting a different perspective. One can see the way in which the Opposition now puts a preamble onto question time in terms of its questions. It is all designed to attract the wider audience so that it gets a runner on Laurie Oakes.

I do not dispute that it has brought us into disrepute, but what do you do? That is the way it was or as it appeared to be, and I think we have to wear that. I do not know what rules can be applied, because a lot of the stuff that is unparliamentary is edited. There are certain standards, and they take that to the limit. As I say, I think that people will turn off in droves on pay TV if you just had a dull, boring speech on section 53(3) of the Constitution. I do not know. It is a catch-22, it really is.

**Senator KERNOT:** I was with you, Ken. I thought, "This will make a difference." Now I am there and I can see that it doesn't at all. That is because the news concentrates on question time and that is all, and it concentrates in the main on two men pointing at each other over dispatch boxes, engaging in a contest for the clever lines of the day. I can just see Paul Keating and Peter Costello sitting around for hours trying to come up with the one-liner that is going to make it to the news that night. That is what it has become. Women in particular say to me, "I am glad you are there, but why would you want to be? Why would you want to be down there in that culture?" I say, "Well, I don't find it like that directed at me a lot, because I am not John Howard or Paul Keating."

Australians have a very funny relationship with this. I actually see it as the 1995 version of the Colosseum. There is a real sense of larrikinism in Australians. They say they hate it, but men in particular quite like it. They like the ritual stag fight. Remember when all of that press was aimed at the first day John Howard was going to face Paul Keating across the dispatch boxes in question time? There were days of media build-up, and then we saw it happen. Everywhere I went for a day after that—at airports, etc.—people said to me, "Did you see them? Who do you think won?" There really was a fascination with the contest. The contest is important. It sort of points to the next step in the battle. I think that is a real problem. There is a cultural element there that works to alienate women but embraces the masculine qualities about it.

The second point is that it is like a rarefied rehearsed theatre one hour of the day. The rest of the time, one can actually see some quite decent, intelligent debates on important matters, but they are not covered. For the rest of the time, you will see nobody in the press gallery, or rarely; the Land Fund generated a bit of interest recently, when there were three people in the press gallery. You will find that journalists get caught up in the theatre of who is winning and who won that round, that question time that day. At the end of John Howard's first couple of weeks, there were scores like a boxing match: who is ahead on points? Who won round one? That is the language of the political culture we are immersed in, and it is really hard to demolish that single-handedly.

It is a two-way thing. The gallery feeds on it, and that feeds the politicians to keep going. The news then picks it up, people think that is the way it always is, and it increases the cynicism. We might be better to get rid of it or have a freeze on it, a moratorium on it for a while till we all behave ourselves. I just think that is the nature of politics, unfortunately, in the sort of culture in which we live, and it is not all our fault.

**Dr SOLOMON:** I know who you are blaming, and all that scoring about what happened in question time, of course, used to happen before television. If there were more newspapers, the answer would be to go back and ban television and radio other than total coverage. That would fix them, all of them!

**Mr McCutchan:** More than one reference has been made to the disadvantages of a system that is predominantly two-party, but looking around other places there does not seem to be much likelihood of an alternative. I understand, although I find it hard to believe, that in one or two Scandinavian countries there is a system whereby before an election the two parties have to sit down together and agree on at least a broad framework of policy which will be implemented by whichever party becomes Government. It sounds so idealistic as to be

unreal. I wonder whether either speaker has any knowledge of that or can elaborate on it at all.

**Mr MELHAM:** No, I do not have any knowledge of that system. I actually am a fan of the two-party system, to be honest with you, and I would like to draw people into those two parties. If we were living in Italy—what number Government are they up to now since the war?

**Senator KERNOT:** We have had just as many elections—'83, '84, '87, '90, '93, '96.

**Mr MELHAM:** And some of those elections were the result of the naughty Senate! I apologise, but I have no knowledge of the system to which Mr McCutchan referred. I actually believe that those are the sorts of things that we will be thinking about in the future.

I want to refer to one thing that has not been said tonight, and I do not want to embarrass the Democrats, because I know that Cheryl will be embarrassed by this. My theory is that through the fifties as a result of the split and right through the sixties, the Liberal Party really formed Government in coalition with the DLP, the Democratic Labor Party, by getting the preferences from them in the Lower House and then in effect, in terms of the Senate, having a coalition with them. I believe that the boot is on the other foot since the evolution of the Democrats, because in many instances the Labor Party has benefited from a majority of the preferences in the Lower House. The 1990 election was certainly an example of that, where we were elected with only 39 per cent of the vote. We have had the benefit of a lot of Democrat support for a lot of the legislation in the Senate, so they have basically been—and they will deny this—part of the left of centre coalition with the Labor Party.

I can see a situation not too long down the track in which a Cheryl Kernot will be sitting in the Labor Cabinet as a Democrat. I do not write that off if the Democrats manage to break through in a few Lower House seats or whatever, and then we will have a Labor Party/Democrat coalition. I believe that a lot of these things are possible. What we did not think was possible 20 years ago is happening now. I do not know what the future holds. As I say, I have no experience of the system to which Mr McCutchan referred, but that might be the situation. I always wondered, since the National Party were agrarian socialists, why they were not in coalition with the Labor Party on some of their policies. They really are the protectionist party—the only one left at a national level. I just throw that in.

**Senator KERNOT:** I do not know where that system operates either—do you, Ken? We hear all these calls that we need a Government like the wartime Cabinet. People remember cooperation in the face of adversity. I have to ask: why would it be possible for two big, monolithic parties with really quite different and rigid world views to sit down and arrive at something when it is not in their best interest to do so? Their best interest is in product differentiation, even when on matters economic they are really quite similar. The perception that is created is one of immense difference, but there still are core issues, particularly in the role of unions, the role of the individual, Bronwyn Bishop style, and those sorts of things.

Consider the way they approach Aboriginal and Torres Strait Islander issues. We heard Ian McLachlan at the end of what too many people, in my view, called a gracious resignation utter the throwaway line, "Anyway, I think it is quite ridiculous that we have to worry about these women's business things, these sacred matters, in a court." Contrast the attitude of the Labor Party, which is trying to find a way to deal with things like customary law—huge, complex—with an Opposition which says that it is not important; it has no place. Contrast the coalitions' attitude to land in which it says that land is a commodity to be bought and sold with the Aboriginal point of view that land is something to which we can demonstrate spiritual and other attachment. It is very hard to reconcile those two world views in such a way as to find them agreeing on all the big issues facing this nation.

On Senate committees, it is very often possible to get a unanimous report. That illustrates, when you take us out of the theatre and away from our bosses and all the rest of it, how it is possible to deal with each other as human beings with particular ideas that are worth exploring and debating. Unfortunately, for a whole range of quite real reasons and obstacles, it is very hard to duplicate that at a framework-for-Government level.

**Dr SOLOMON:** It is easier to reach agreement on policy after elections. I now call on David Watson.

**Dr WATSON:** David, Cheryl and Daryl, ladies and gentlemen—on behalf of the Queensland Parliament, let me welcome everybody here. I happen to be a member of the Australasian Study of Parliament Group, and I happen to be a Liberal member of Parliament—we seem to be rather rare here tonight! We have put on this seminar tonight in conjunction with the Constitutional Centenary Foundation. One of the advantages of delivering a thank-you speech is that there is no right of reply. Being both a former academic

and a former member of the House of Representatives as well as the current Queensland Legislative Assembly, I would like to take advantage of that and make one or two observations.

The question was raised—rather facetiously, I guess—about whether or not one could sell a Parliament and what one would get for it. Let me tell you that economic theory will offer the answer quite simply. If it comes with its monopoly powers, the price will be quite high. However, if you allow competing Parliaments to arise, the price will be lower. That is one element that we must understand. The thing about Parliaments, whether they be State or Federal, is that they do operate in a monopoly position. They actually have power to affect people's lives, and we should never, ever forget that.

We are discussing here how to distribute that power between institutions in our society. One can have different viewpoints on that. I happen to believe in Federal, State and local Governments. I believe passionately in that system because it helps distribute the political power in our society. If a democracy is to survive, one of the things we do not want to do is concentrate political power in just one or two institutions. When I considered the suggestions that Daryl made, it concerned me that what we will end up with is a concentration of political power in one institution. In the longer run, if you look at the history of the world, that will be the death of democracy, because it will lead eventually to a form of dictatorship. That is why I happen to support the existence of the Senate.

The questions that were asked about dealing with different factions, if you like, in the Senate were interesting. One of the advantages of an Upper House and one of the advantages of having a different system of election of individuals to an Upper House as against a Lower House is that we tend to distribute across a wider section in the community the political power in our country. I happen to believe that there are advantages to the current system. There are advantages in the way we distribute political power. We must be very careful and we ought to debate thoroughly the types of changes that people are proposing and what impact they will have on the distribution of political power in our country.

It was interesting that my former Federal colleagues—although neither of them was in Parliament when I was there—made disparaging comments about the committee systems in the State Houses, and particularly the committee system in Queensland, which is a new system and which is fairly easy to disparage. I have been on the Public Accounts Committee of the Queensland Parliament and am currently on the Parliamentary Criminal Justice Committee. When I was in the Federal Parliament, I was on the Joint Committee of Public Accounts.

I say to Cheryl and Daryl that I have found that the committee system here to a large extent, at least on those two committees, has actually worked quite well. The majority of the reports that those two committees have brought down have been tripartisan. I have found that the individual chairmen, even though they are obviously of a different political party and persuasion to me, have actually operated quite responsibly. I will not say that that is true of all committees in the Queensland Parliament. I am not suggesting that we cannot do things better, and I hope that in the future the committee system will be even further enhanced. From my viewpoint, it is a little unfair for people who have not participated in the system to make remarks which perhaps show their lack of understanding of the development of the committee system operating in this State.

**Senator KERNOT:** Don't you believe in world's best practice?

**An audience member:** Just have a look at the new Criminal Code.

**Dr WATSON:** The proposed new Criminal Code has not been before the Parliament yet, but that is another matter.

I believe that the issues discussed here are extremely important. However, it needs more than us here to address these issues in our society, because whether we like it or not, they will not go away. As our society and the mixture of it changes, we will have debates for quite some time about how to best represent people and what the exact role of a Parliament versus an Executive will be in that evolving scenario.

We have seen a very honest approach adopted by both of our speakers. When sitting up the back, the thought occurred to me that it is really good to see a couple of people come along and express their personal viewpoints about some very critical issues. Finally, let me say that I think Daryl had it right. We are very fortunate in our society that we have a war going on, but it is a war of words and not of anything else. In the final analysis, we should not miss that in whatever decisions we make. I thank David Solomon for facilitating tonight's discussion, Cheryl Kernot for her elucidation of the issues and Daryl Melham for the insight

that he provided. I ask each and every one of you to join with me in showing your appreciation in the normal fashion.