

Chapter Ten

Parliamentary Democracy in Australia : Some Supplementary Thoughts

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In the paper on parliamentary democracy which was read on my behalf to The Samuel Griffith Society in April last year, I emphasised the need in the future to restore the authority of Parliament, but I did not pause in that article to develop the steps by which this might be attained. I propose now to do that.

Much that I will write will appear trite to those familiar with our system of government but it is necessary for me to round off what I have to say by referring to this material.

At a general election the participants nominate the party which they support, so that when the result of the general election is known it is possible to say how many of those elected support one party or the other. Therefore, when the Governor-General performs his duty of selecting a ministry which he will head to form the Government, he can tell which party has received majority support of those elected to the Parliament, Senate and House of Representatives. As the ministry he will appoint must depend upon the Parliament for the funds necessary to carry on government, naturally he will choose the leader of the party with majority support as his chief minister. I need not pause to consider the question in the instance of a hung Parliament.

In a Labor administration the ministry is chosen by election by the elected members who will provide the majority support and the Prime Minister can assign the portfolios amongst the elected ministers. When the Governor-General's appointed ministry to govern the country is complete those elected to Parliament, whether to the Senate or the House of Representatives, from whom the ministry has been chosen, fall into two distinct groups: the ministry, and the elected members of Parliament who are not ministers.

These two groups have divergent functions: the ministry is to govern the country; those who are not in the ministry have the function of controlling the funds which will be made available to govern the country. This function is performed by consideration of and voting upon the proposals for revenue raising and expenditure put forward by the ministry, first in the broad when the Budget itself is considered and then in detail when the estimates go before the Parliament as a committee of the whole. The process of choosing a Government is really not beyond question until the Budget estimates have been accepted by the Parliament.

To cover the period which must necessarily elapse whilst the Budget and estimates are considered and voted upon, it is customary for the Parliament to grant temporary Supply, which is expressed to be available to a date late in the year, but this is done on the premise that the Budget will be carried. If the Budget is not carried, temporary Supply will be available to fund an election, but not to enable the Government to continue to govern.

The other function of those elected to Parliament and not chosen as ministers will be to consider the terms of any legislation proposed by the ministry and any executive action taken by any of its members. Thus my first point is that, although all the members of Parliament are elected, those who support the party which has won the majority of seats, Senate and House of Representatives,

have these two distinct and separate functions: the ministry to govern, the rest to control the finances of the country and to supervise legislation and executive action.

Now in Labor administrations for more than thirty years all the elected members of the Labor Party are lumped together to form a Caucus in which the policies of the Government and the detail of legislative and executive action are discussed and determined. The important point here is that by the adoption of a Caucus the distinction between the function of the ministry and the function of those who are not chosen as ministers is completely blurred.

Another result is that when Caucus has decided on the terms of the legislation to be proposed to the Parliament or executive action to be taken, the whole Caucus is bound to support the proposals, notwithstanding any difference of view which the members of the Caucus, may have expressed with respect to the legislative or executive action. When the proposal or executive action comes before the Parliament its fate is already determined, the Parliament being denied the chance of knowing what has taken place in Caucus, and members of Caucus who may have dissented from the Caucus decision will be bound not to disclose their differences to the Parliament. In brief, the Parliament as such is expected to rubber stamp the ministry's proposals or executive action. I believed that this use of the Caucus was probably a by-product of the long period Labor was in opposition during the years of the Menzies and Holt administrations, but I have been told, and I accept, that it developed at an earlier time. However, it was a product of Labor's egalitarian view that all members of Parliament should be entitled to receive the same information and participate in government decisions.

The necessary consequences of this Caucus control of the Parliament, whether designed or not, is that the much vaunted checks and balances of parliamentary democracy are bypassed and no longer operate, particularly when Labor is in government. In other words, particularly under a Labor administration, the Parliament is treated as a rubber stamp for the Caucus, and the country is not governed by a parliamentary democracy at all but by the Caucus, which is unchecked except that it must formally obtain the predetermined consent of the Parliament.

On the other hand, in my experience as a minister of the Menzies administration, in a Liberal Party meeting of members the distinction between the ministry and the rest of the elected members was maintained, the ministers being seated behind the Prime Minister at one end of the room and the backbench (as those not chosen as ministers are commonly described) occupying the other end. Questions of the ministry are put by the backbench as well as suggestions for action to be taken. Ministers are called to make explanations of the legislation which is proposed in their portfolios, and generally are required to answer questions from the body of the meeting. Thus, although in the Parliament the backbench will be expected to support the ministry, a degree of dissent on the part of the backbench will be tolerated, certainly as to the detail of the legislative measure or executive action which is concerned. In other words, in the ultimate resort the Whips are available to the Government.

In my experience this adequately describes the differences between the Labor administration and the operation of a Liberal group so far as the recognition of the difference between the function of the ministry and that of the backbench is concerned. Whilst some differences of opinion between the ministry and the backbench would be tolerated, no doubt the backbench would be expected to support the ministry, and does so.

There ought to be some understanding as to the matters upon which the backbench is expected to support the ministry. A rule could be made that, as to any policy which had been nominated by the party at election time, and for which it might be claimed it had an electoral mandate, the members could be required to support legislation to effect such a policy. That would leave the

detail of the legislation for discussion and decision. It is of course a breach of parliamentary privilege for a member to be subjected to any disadvantage because of the way he voted in Parliament. Such a rule as I suggest might be accommodated to the idea of parliamentary privilege.

Now in relation to the authority of Parliament, this failure adequately to distinguish between the functions of the ministry and that of the backbench has meant that the Parliament has become, as it were, a rubber stamp for the ministry, and legislative proposals and executive action are not adequately discussed in the Parliament, decisions having been taken in the Caucus.

With the formation of the Caucus as an undifferentiated body and the resultant effect on the Parliament, the country ceases to be governed by a system of parliamentary democracy after the Westminster system and becomes governed by Caucus, and a Parliament whose decisions are pre-empted by those of the Caucus.

So the first step towards reinstating the authority of Parliament would be to identify and emphasise the difference of function between the ministry and the backbench. The second step would be to foster discussion in the Parliament of the detail of the legislation and of executive action. In other words, the independence of the Parliament of the ministry needs to be secured.

The fact that a ministry is appointed as such to hold office during the time it retains the confidence of the Parliament needs to be recognised. The blurring of the difference between the functions of the ministry and the backbench should not be allowed to support the assertion that the Government is elected as such, whereas it is in truth appointed as such. Parliamentary democracy depends upon an independent Parliament performing the functions of controlling the finances of the country and participating in the legislative function of the Government.

Whilst an undifferentiated Caucus is established there is little chance of an independent Parliament developing. Indeed, the undifferentiated Caucus not only prevents an independent Parliament from developing, but encourages the notion that the Government itself is an elected Government whereas, on the contrary, it is an appointed Government holding office on sufferance. So essential steps to reassert the authority of an independent Parliament will need to begin by the abandonment of the Caucus system and the differentiation of the appointed ministry and the elected backbench, and an emphasis upon the divergent functions of each group: the ministry to govern, the backbench to see to the raising of revenue and its expenditure and the discussion of principles upon which legislation should take place.

This step in the case of a Labor administration is unlikely to occur because of the entrenched Caucus system with its undifferentiated distinction between the ministry and the Parliament. In the case of the Liberal coalition it would involve abandonment of the requirement that members of the party necessarily support the action of the ministry by endorsement in the Parliament. It would involve a change in the way in which the Parliament functions, allowing for dissent on the part of the members of the backbench and a more discursive conduct of the affairs of the Parliament. But if parliamentary democracy is to be restored it is unquestionably essential that an independent Parliament be fostered.

In my earlier paper I called attention to the effect of the party system on parliamentary democracy, and it is evident that to sustain parliamentary democracy there must be some drastic modification of the party system.

I have suggested that the party can insist upon its members voting for policies which had been nominated at election time and for which the party has received an electoral mandate. This would leave the detail of the manner in which the policies are implemented to be discussed and decided, and in this discussion and decision members of the party should be free to express their own

opinions. I realise that this proposal would create difficulties for a Labor administration but if parliamentary democracy is to be restored they must be overcome, no doubt by discussion and agreement.
