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cc
Subject: submission to PAEC inquiry

18 May 2007

Executive Officer
Public Accounts and Estimates Committee
Parliament House
Spring Street
East Melbourne Vic 3002

The attached submission is forwarded for the consideration of the PAEC Inquiry into Strengthening Government and Parliamentary Accountability in Victoria. I was the Speaker in the NSW Legislative Assembly from 1988 to 1995. I am currently the National President of the Australasian Study of Parliament Group, an Honorary Research Associate with the Department of Government - Sydney University, Honorary Research Fellow in the Department of management - Monash University and author of 'Gavel to Gavel, An insider's view of parliament' published by UNSW Press last year. I have recently been engaged by the Centre for Democratic Institutions to facilitate the induction program for newly elected members of the PNG Parliament in August.

I trust the Committee will find my submission of interest.

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Executive Officer
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The attached submission is forwarded for the consideration of the PAEC Inquiry into Strengthening Government and Parliamentary Accountability in Victoria.

I am a member of the Australasian Study of Parliament Group project which produced the paper 'Why Accountability Must be Renewed'. I understand this paper has been made available to the Committee. I support the document, its reasoning and underlying assumptions. The accompanying submission, however, reflects my own opinions and is additional to any deliberations of the ASPG project.

I was a member of the NSW Legislative Assembly from 1973 to 2003, and Speaker from 1988 to 1995. I am currently the National President of the Australasian Study of Parliament Group, an Honorary Research Associate with the Department of Government - Sydney University, Honorary Research Fellow in the Department of Management - Monash University and author of 'Gavel to Gavel, An insider's view of parliament' published by UNSW Press last year. I have recently been engaged by the Centre for Democratic Institutions to facilitate the next induction program for newly elected members of the PNG Parliament.

I am also a director of the NSW Law and Justice Foundation and the NSW based Public Interest Advocacy Centre.

I trust the Committee will find my submission of interest.

Yours faithfully



The Hon. Kevin Rozzoli

SUBMISSION TO THE PUBLIC ACCOUNTS and ECONOMIC AFFAIRS
COMMITTEE RELATING TO MATTERS FALLING WITHIN THE
COMMITTEE'S TERMS of REFERENCE IN ITS INQUIRY INTO
'STRENGTHENING GOVERNMENT AND PARLIAMENTARY
ACCOUNTABILITY IN VICTORIA'

I believe there are the seven elements constituting a parliament a parliamentary institution:

- to provide representation for the community on all matters pertaining to its collective welfare;
- to provide a governing executive;
- to provide for the finances of the State;
- to debate issues of public concern;
- to enact legislation;
- to scrutinise the actions of the governing executive and the public service; and
- to facilitate the representative function of the members of parliament.

The three elements of, debating issues of public concern, enacting legislation and scrutinising the actions of the governing executive and the public service, all have a significant bearing on the daily functioning of a parliament and therefore the efficacy of its outcomes. In turn the efficacy of its outcomes has great relevance to the level of public respect for the parliament. This is the most substantial plank of a well-ordered democracy.

My submission relates to the interaction between these three elements and because the topic is so broad will concentrate on:

- Procedures for debate
- Question time

The committee system

- Modernisation of Parliament including the permanent abolition of wigs and other archaic practices
- Overseas travel

The views I give are not exhaustive, even of these subjects. I would be happy to make myself available to the committee if it wished to take further evidence on any of the matters I raise.

- **PROCEDURES FOR DEBATE**

One of the factors adversely affecting the present day image of parliament is the poor quality of debate. Not only does this damage the image of parliament, it also brings into question the relevance of the parliamentary institution to the broader process by which a society exercises rights and responds to obligations as mutual elements in administering public authority.

In a democracy, these elements are critical to a free, well-balanced society and the effective and cost efficient expenditure of public monies. Parliament can and should have an integral role in strong and effective governance, but to do this it must not only be effective, it must be seen to be effective. It is of major concern that the public perception of parliament is that they are relatively ineffectual in making a productive contribution to responsive, democratic government.

Current jurisdictions provide governance through a powerful executive, which at best seeks formal approval of its actions from parliament and periodic affirmation of its performance from the people at elections. Whether this is truly a merit based assessment or simpler a choice of the lesser devil is a matter of debate in itself.

The concept of democracy is founded in the right of every citizen to take part in public affairs, including the right of all levels of the community to take part in the legislative process and to oversee the governance of their country. The democratic process should deliver the right of citizens to good government, should be open and transparent, and provide public accountability for all who administer public authority, whether elected or not. In a strong democracy much of this can be delivered through parliamentary debate.

Current processes do not always produce quality outcomes. Legislation is determined by pre-arranged voting intention while most debate mostly passes into oblivion by virtue of procedural factors. This does not make for an effective parliament.

The right of a government to pursue its election mandate through a legislative program is accepted. The public does, however, take exception to the active suppression of an alternative view and the out of hand rejection by government of good initiatives emanating from sources other than its own internal initiatives.

Whether a more open approach to the consideration of legislation can flourish depends on the culture of government. While ever the present winner-take-all attitude prevails, open government cannot function. To be more open the government must concede the right of others to a view and accept that good ideas can and do flow from other quarters. The greatest beneficiary would be the public.

It is often said that parliaments seem out of touch with the common people and do not engage in significant debate on matters of major concern. Perhaps part of the remedy would be for parliaments to sit more days per year with a greater focus on the role of members as representative legislators, thus providing a greater participation by backbenchers in shaping legislation through more informed debate. This view was supported by Carmen Lawrence, Commonwealth Member of Parliament and former Labor Premier of Western Australia, in her presentation to a Victorian conference in 2001 sponsored by your Parliament and The Department of Management, Monash University ('Parliaments: Meeting Public Expectations' 21.9.2001) in which she nominated some of the 'downsides' of parliament as being, the domination of the executive, the empty nature of most debate, members speaking to a void, that is, speeches given to a Chamber with no or few other members present, and the unrelated and often repetitious nature of most speeches.

Mechanisms need to be put in place by which the sovereignty of parliament may be strengthened. Essentially, real power must be returned to parliament in line with the underlying sentiment of our constitutional base which pays little or no regard to political parties. Members are returned as individual representatives with a primary responsibility to their constituents. Procedures need to be amended to reflect this. What follows are a few suggestions to advance the debate. They are ideas also canvassed by others. My purpose is to draw them together.

Proposal Parliaments should have the right to set their own budget within defined probity limits and transparent accountability. Members should not be unreasonably constrained in their ability to carry out their duties and serve their constituencies effectively.

Proposal Each House should be able to determine its business program through a non-partisan agenda committee.

Proposal Establish broad ranging public interest debates as a precursor to major legislation. To enact legislation before broadly debating its need and scope reduces the opportunity for effective law. Public interest in significant areas such as stem cell research, anti-terror laws, substantial taxation and industrial relations reform and the social welfare framework demand a wider and more informed debate than is presently possible. Governments should facilitate free-ranging ‘take note’ debates on such subjects as the first step of the legislative process. Take note debates usually result in an improved standard of debate. Members are able to apply their experience to suggestions on ways of dealing with the problem. The absence of a predetermined government position would certainly facilitate more objective consideration.

Should the government wish to continue to legislate, the drafting of that legislation would then have a substantial pool of views and ideas, and a degree of public ventilation, to assist in shaping the bill or bills, particularly if bills could be coordinated with the debate by on-line forums on the internet engaging comment from the community.

Not all legislation would necessitate such an approach. Bills could be classified either as major or public interest bills, or minor or machinery bills. Public interest bills would be those relating to new fields or major changes to existing principal Acts while machinery bills would be those not fundamentally altering the objectives of a principal Act. The agenda committee, proposed above, would have responsibility for classifying bills and programming their debate. Classification as a public interest bill would generate a ‘take note’ debate which would trigger a motion to set the matter aside for further consideration at a later date or move on to the consideration of legislation, and, if the latter, a motion to bring in the bill would be debated as a first reading of the long title and reference to the relevant standing legislation committee for its consideration (see later proposals under ‘Parliamentary Committees’). The relevant minister should sit on, but not

chair, the committee. A similar concept has already been adopted successfully in New Zealand.

This process would, I believe, produce much better legislation, facilitate the ultimate passage of the bill through a limited second reading debate and a much a simpler Committee of the Whole stage. The concept of limited second reading debates was also canvassed by Carmen Lawrence at the conference referred to above. She suggested that steps should be taken to ensure all legislation has extensive pre-introduction consultation and that speaking lists for bills should be structured to cover the scope of matters in the bill rather than the present practice of disembodied speeches which often cover the same ground. While, at initial glance, it may seem to prolong the legislative process I believe this more thorough, methodical and consultative approach would result in better legislation, and reduce mistakes which themselves cause delay and hardship.

Proposal Parliaments must make their processes more open to the public. This would enable them to be seen as more truly representative rather than the present image of a group of delegates working in a rarefied atmosphere. This can be achieved by generating more informed public debate.

An outstanding example of this wider public consultation occurred in the United Kingdom Parliament in 2002 in relation to the deliberations of a committee established to consider legislation in the area of domestic violence. An analysis of policy input towards the end of the deliberative period revealed evidence had been confined to police, health and community workers, and peak bodies. Women actually suffering abuse had not been consulted. The committee set up an on-line forum which ran for a period of one month. During that time one thousand pieces of information were received from women who had suffered or were suffering domestic violence. The information gathered was of great value to the committee and guided subsequent legislation in a number of significant ways. While the identity of the women remained anonymous, information afforded by an independent and confidential registration process showed most of the women had never communicated with a member of parliament previously, never visited parliament, never been on-line, and few were particularly computer literate. Nonetheless, given the opportunity they were anxious to have their say. In other words a target group was

reached who would otherwise have been excluded from the process. There is a significant lesson to be learnt from this United Kingdom experience.

Proposal Parliament should be televised on a dedicated channel. Much has been said of the potential influence of television on decision-making; however in Australia television does little to inform viewers. The ‘ten second grab’ of bad behaviour in parliament has no value. Nor do late night programs on the ABC. Perhaps television programmers think insomniacs are the only people interested in parliamentary debate. Parliament should be broadcast on a dedicated public affairs channel. Arguments such as cost and the opinion that few people would bother to watch are flawed when weighted against the value of public access to the process. It is all about accountability. While it may seem costly it could be better value for money than expensive and controversial government advertising and ineffectual legislation. Between parliamentary sittings the channel could promote general government information and on-line forums aimed at eliciting feedback from the community on nominated topics.

- **QUESTION TIME**

Question time is regarded by many as the focal point of the parliamentary sitting day. Certainly it is the time when government is perceived to come under its closest scrutiny, not only from the opposition but the media, and thus the public.

Proposal Question time be extended to forty five minutes and Ministers answers limited to three (3) minutes. I note the current standing order provides a question time of thirty minutes or ten answered questions whichever is the longer. The above suggestion would guarantee more than ten questions but have the effect of constraining Ministers more specifically to the subject of the question, as deviations, interjections and points of order would reduce the Minister’s speaking time.

While it is accepted that a Speaker cannot direct a Minister as to how a question should be answered, more should be done to support a Speaker’s power to require an answer to be directly relevant to the question. These two initiatives would do a lot to restore the place of question time as a genuine forum to seek information.

Although there is probably little that can be formally done to curtail the practice of question lists prepared by government and opposition strategists, a singularly bleak and unproductive process, any steps that may be taken informally to break this culture would be welcomed. Those of us who remember the genuine question times of yesteryear will recall they were much more vibrant, probing and in the public interest.

- **PARLIAMENTARY COMMITTEES**

Over the last twenty years parliamentary committees have been an emerging and powerful force for more effective representation of public opinion by members. In particular the trend in Australia to return Upper Houses in which the government does not have a majority has created a dynamic through which the electorate voice may be heard in a way not previously possible. Inevitably Lower Houses have sought to mirror some of this activity lest they be seen to be abdicating a vital role.

Committees are a valuable tool for a richer democracy, however, to fulfil this role it is essential they be adequately resourced. Adequate staff and accommodation, with access to expert advice, unfettered access to government papers and collateral information including legal and fiscal advice is essential. Committees should also involve an equal distribution of members, other than members of Cabinet, and committee work considered an integral part of a member's duties. To underline the significance of the large body of valuable work delivered by committees, reports should be allocated adequate parliamentary time to debate their findings, and there must be a specific government response to parliament on any recommendations. Equally important is the need for an effective follow up mechanism to track government responses with committees having the power to reconvene hearings if, after a reasonable period, the government's response is inadequate. Every member should be concerned at the waste of time and effort each time an excellent report disappears into the proverbial 'black hole'.

Proposal I believe it would be a major step forward if meetings of committees were, for the most part, held on pre-determined days within the parliamentary calendar and designated as parliamentary sitting days. Thus, instead of parliament sitting, say sixty days a year, without public recognition of the time spent on committee work, parliament

would sit, say ninety days, made up of forty days in plenary session and fifty days in committee. In other words committee days would be listed as normal sitting days with multiple committees sitting each day.

Participation on committees helps develop bonds of understanding and mutual respect between members and this in itself produces a more productive parliamentary culture. Most committees produce good results and are well worth the time, effort and expense. A problem exists, however, in the sheer physical demand on backbenchers to service them. The proposal to allocate specific days, designated as parliamentary sitting days, would do a lot to manage this burden. Committee work must be promoted to the public as proceedings of parliament in session as much as conventional sitting days and the workload distributed evenly among members. In this way more productive use could be made of a member's time with less time being spent in the parliament's plenary sessions. A committee structure similar to the New Zealand subject committees provides a good basis.

Proposal Where a report recommends specific action the recommendation, if adopted without amendment, should bind the government. Such an imperative would result in government only rejecting or amending recommendations for sound reason. I am not alone in making such a suggestion. A further suggestion put forward by Carmen Lawrence at the Parliaments: Meeting Public Expectations conference was that committees should have the power to initiate legislation, noting that in many cases nothing was done to implement important committee recommendations.

Proposal A further suggestion to make committees more effective would be greater use of the internet to establish closer contact with the public (see the UK example given earlier). Committees would gain great value from utilising an appropriate website to access public comment. With submissions already being received by email it would be a simple step to canvass opinion on specific issues or seek advice from a wide range of sources on general questions.

Committees could also benefit from promoting their inquiries on a public affairs channel (see earlier proposal). The interactive nature of the internet could well prove a

useful complementary tool; generating submissions and allowing witnesses to give evidence on-line.

• MODERNISATION OF PARLIAMENT INCLUDING THE PERMANENT ABOLITION OF WIGS AND OTHER ARCHAIC PRACTICES

I am not sure what ‘archaic practices’ is meant to cover, but it is my belief that most attempts to take away the practices that have lent dignity to parliaments for many years have had only a deleterious effect on behaviour and a consequent decline in public respect. The wearing of wigs and gowns by Presiding Officers and Clerks helps reinforce the authority of the parliament rather than the individual. As with the courts these symbols of authority, which vest emphasise the authority of the institution over the individual who at any particular time may occupy the position, has always been an advantage. If there is something to gain from making everyone look like everyone else why don’t sportsmen abandon team uniforms which set them apart from spectators, or soldiers and police dispense with their uniforms to present a less confronting and people friendly image? Simply because it diminishes their capacity to function effectively. We are in danger of dumbing down our parliaments to the point where no one cares any longer what they do or how they do it. In short your committee should concentrate on the real issues of efficacy and accountability and forget the sideshows and shadow play.

• OVERSEAS TRAVEL

Overseas travel is just as important for State members as Commonwealth members, indeed in many ways it may be more important, as so much of our State’s jurisdiction involves matters germane to the everyday lives of our citizens. Every member should be entitled to at least one publicly funded overseas trip, of at least three (3) weeks, per parliamentary term. While the trip may be extended for other than parliamentary reasons the parliamentary component of the travel should be subject to strictly enforced guidelines on how the time is spent, including submission of a detailed itinerary before departure, approved by the parliament and verification of all nominated activities on return including the submission of a detailed report on outcomes achieved from the trip.

In planning travel strong linkages could be made between matters to be investigated by the member and that member's committee interests or recognised public policy interests. No other profession treats its members with such disdain when it comes to matters that may enhance the education and performance of those operating in the field.