

From Westminster to Spring Street: Governing Victoria DVD Transcript

"I guess you could say that a functioning Democracy where the population's kind of wills and needs are taken into account by elected leaders means that you live in a society where services are provided for you."

"Always the political system affects your life and country because it has a direct impact on your life."

"It affects what sort of schooling you get, it affects what sort of health services you are able to access."

"Or if we had a dictator state or a state that's run by a leader who hasn't been elected but has been appointed, then you know, you certainly have issues when you want to challenge the government, a system that doesn't protect the rights of activists and people who want to speak out then it's entirely possible that they could be arrested or otherwise silenced".

"When you have a society that doesn't have a voice, you'll have oppressed society."

"In my country it is supposed to be that the government is accountable to the people, but in most cases it's almost been that the people are slaves to the government."

"In Iraq, under Saddam, changing the law were made by one person. Saddam said before, "What is the law? The law is what I write on the paper."

For all its faults and inadequacies we have yet to invent a more equitable or more accountable system of government than democracy.

There is no one democratic system. Various countries use democratic principles in different ways to create a system and institutions that suit their own needs and circumstances. Victoria is not different.

Victoria is part of a federation of states and territories, each with its own elected governing body. The federal or commonwealth parliament broadly looks after those areas that affect the nation as a whole.

The state and territory government are responsible for matters within their own borders.

As a Constitutional Monarchy, Victoria's head of state is the Queen, and her appointed representative is the Governor. We are a representative democracy.

All Victorian citizens who are Australian Citizens 18 years and over have the right to vote.

Victoria is also a liberal democracy. A liberal democracy retains majority rule, but also protects the rights of individuals and minorities.

An overall principle in our system of government includes the principle of the rule of law. Nobody is above the law and that includes law makers.

The Victorian Parliament is based on the Westminster system of government, so called because the British Parliament sits in the borough of Westminster in the city of London.

“The evolution of the British Westminster system is largely been one whereby power has gradually been taken from the Crown and passed to the parliament, and that’s taken place over many many centuries. But it’s also seen the rise within the parliament of the executive, so it’s been a sort of a two step process, the move in authority from the Crown, and the rise in authority of the executive.”

This ability to evolve sees Westminster style systems adopted around the world.

“It’s been an influential system in terms of other people simply duplicating it, and so you get places such as very small Pacific Island states, such as Niue through to some of the largest of the parliaments in places like India where millions of people are still using this system in one way or another.”

As it evolves, the Victorian Parliament also develops its own ways of working.

“Essentially it is an adaptation it is not an exact duplication, it is not a stamp that we received, it’s something that’s devised locally, built on existing practices and precedents but nevertheless developed its own ways of doing things.”

“The area we now call Victoria was a squatting district of NSW it was known as the Port Phillip district of NSW and it was governed entirely from Sydney. Revenue raised in the area was spent elsewhere in NSW, we had very poor levels of representation, so that right through the 1840s there were calls for independence and separation from NSW.

To great rejoicing, on the 1st of July 1851, Victoria is at last declared an independent colony of Great Britain with its own government. This new government is headed by a Lieutenant-Governor who is advised by a Legislative Council. He can accept or ignore this advice as he sees fit. Unlike the Legislative Council we know today, two thirds of its members are elected by people who have substantial land holdings, while the remaining members are chosen personally by the Lieutenant-Governor.

At the time, Victoria's future looks bleak. It’s in a recession, it’s just been scorched by devastating bush fires. The wool industry is in decline. It has few prospects. But within seven days of Victoria being proclaimed an independent colony, gold is discovered at Clunes, and soon after in Ballarat. The gold rush brings a torrent of people and a flood of wealth, and all the problems that come with sudden and massive growth.

“So you had this poor old Legislative Council where all of the members were complete amateurs and they are all out of their depths. But nevertheless this Legislative Council achieves three vital things.

First of all it writes a Constitution for Victoria. It’s very important, we have a written Constitution. Westminster does not have a written Constitution we do. Secondly, it invents the secret ballot. It’s not widely known but the secret ballot is a product of Victoria and its spread as we all now know as the preferred method of controlling voting. And thirdly, the Council was wise enough to realize that if they were going to go ahead and develop as a nation as they thought they were, they needed appropriate accommodation so they started the process of constructing Parliament House.”

On the 25th of November 1856, the first Parliament of Victoria elected under the new Constitution is opened.

The Parliament is a three-tiered structure comprising the Crown, a Legislative Assembly of 60 members and a 30 members Legislative Council. Significantly, the representative of the Crown, the Governor, is today an essentially ceremonial figure, who can usually only act on the advice of the elected government.

“The Governor's role is gradually whittled down and the Governor's influence becomes less as the parliament asserts itself. The parliament basically argues that the Governor has no direct say in the affairs of the colony, it's the parliament's role to do that.”

In 1856, all adult males within the colony win the right to vote. A good 62 years before Britain grants the same rights. But voting for the Legislative Council is still restricted to wealthy property owners.

“The Legislative Assembly where the seat of government is believes it is popularly elected and has the right to make policy and pass legislation. The Upper House believes it is a house of review and it's there to curb the democratic excesses of the Lower House as the term was used at the time. Eventually these issues get resolved and gradually we start to see the influence of the Legislative Council decline as people tried to democratized it to make it more representative of the wider body of people.”

On the first of January 1901 the Commonwealth of Australia is proclaimed. The first new nation of the new century. For the first 26 years of its life, the Federal Parliament occupies Parliament House in Melbourne, while the Victorian Parliament is relegated to meeting in the western annex of the Royal Exhibition Buildings.

In 1927 Federal Parliament is relocated to Canberra, and the Victorian legislators return to their rightful home.

The 20th century sees a continuous evolution of the Parliamentary system in Victoria.

The role of the Crown becomes more limited and there is a push for greater representation.

Women are given the vote.

Aborigines and Torres Strait Islanders are granted the right to vote in state and federal elections.

The voting age is lowered from 21 to 18 years of age.

There is a rise in the influence of political parties. It's a Westminster convention that the head of government, the Premier, and all government ministers are elected members of parliament who belong to the party, or coalition of parties, which has a majority in the Lower House. As the political parties hold greater sway over the formation of governments, so too the influence of the many government advisers and electoral staff grows. But still the executive, the Premier, government ministers, cabinet and via them their staff and the public service, are accountable to parliament, and through the parliament to the people of Victoria.

In the 21st century, the evolution of the Victorian Parliament continues.

In 2003 the Constitution is amended to provide for fixed four-year terms for both Houses, the election of the Legislative Council by proportional representation, and removal of its power to block appropriation bills.

Other amendments mean that changes to the Constitution's provisions about representation can only be made by putting those changes to the people by a referendum.

The changes to the electoral system have made it harder for the government of the day to win the majority of seats in the Legislative Council.

“The Legislative Council as a House of review works best where the government doesn't have the majority of members. Because indeed if the government does have the majority of members it can simply rely on its numbers to pass any particular proposal before the House. And it doesn't have to win the intellectual debate. Where a government doesn't have a majority in the House, it actually has to persuade other members of the House to support its propositions. And that tends to mean that in this House we get a better standard of debate.”

Select Committees of the parliament established to inquire on specific issues can put governments under even greater scrutiny. Yet another way of ensuring that the executive is accountable to parliament.

The men who drafted the Victorian Constitution were determined that no single person or group of people should wield unfettered power. So they included various checks and balances to ensure that power is distributed, balanced and restrained, particularly within the institutions of government.

“The distribution of political power within a system does contribute or should contribute to accountable government and I think we have the overall principle of what is known as the rule of law that nobody in this country is above the law. And that includes law makers.

We have to use a number of terms to fully define our system of government. We're obviously a federation, we are a Constitutional Monarchy and we're a representative democracy. Also we're what's known as a liberal democracy we're one of the still relatively few countries in the world that is a fully fledged liberal democracy. The idea of liberal democracy of course is to retain majority rule which is what democracy is all about. But to provide protection for individual and minority rights. That's the liberalism part of it.

The term accountable government is in a sense a relatively modern version of the old term responsible government. It means that the executive arm of government, the Cabinet, is located within the legislature, the parliament that is, nobody can be a minister of the Crown unless they are a member of parliament, quite unlike the American system where they are not allowed to be members of Congress.

Well the people fit in to it in the chain of accountability if you like. I mean the idea is public servants are in a sense accountable to ministers, ministers through Cabinet are responsible to parliament, and parliament of course is ultimately responsible to the people or accountable to the people in that the people vote for parliaments at regular elections, here in Victoria every four years.”

An important feature of our system is that the justices in our courts, who apply and frequently interpret the law, are entirely independent of the elected government.

"I think the age-old tension between executive power and parliamentary accountability, that is parliament trying to keep the executive accountable, that's going to continue as an issue. The whole craft of government if you like is to strike the correct balance between the two."

"What we've seen then is a long period of change where the role of the Crown has become more and more limited and the role of the parliament has become more and more democratic."

There is still a significant role for the Crown in today's parliament. The Victorian Constitution requires that all legislation passed by the parliament has to receive Royal assent.

"The appointment is made by the Queen, as a matter of formality by way of a written document, but it is always or inevitably on the advice of the Premier.

Well my role as Governor can be divided into three broad parts. There's the constitutional, the ceremonial and to facilitate Victoria being seen as a destination for tourists and economic development.

"Her majesty is the head of state of Victoria and I am her representative here and in the legislative process I give assent to bills that have been passed by the two Houses of Parliament, and unless there's some constitutional impediment to them, they become law of the state. The reserve powers are not defined in the Constitution, but they are there to be exercised in the most extreme cases and rare cases where there is a risk, in the perception of the Governor, that the democratic process is not working, and in that case the parliament can be dissolved and the Premier dismissed as Premier and elections are called through the normal process."

There are some seemingly arcane elements of the Westminster system which have survived in the Victorian Parliament into the present day. One of these is the tradition of the first, second and third reading of each piece of legislation which harks back to the days when members of parliament couldn't necessarily read or write.

Another is the opening of parliament ceremony.

"The opening of parliament ceremony is when the Governor comes to the Legislative Council to give a speech which outlines the government's policies for the forthcoming parliament. The Governor requests that members of the Legislative Assembly come from the Lower House to the Upper House to hear the speech, and the officer who is sent down to do that job to bring them up is the Usher of the Black Rod. So an instruction is given to the Usher and the Usher marches down to the Legislative Assembly chamber and he finds the doors barred as an assertion of the Assembly's right to make up their own mind about things, so the Black Rod finally is permitted to enter the chamber, he gives the message, he goes back, and then it takes a little while for the members of the Assembly to come to the Upper House, because again the Assembly is asserting its right to be independent and do things its own way. So it's a very old tradition, and yet here we are, the ceremony in Victoria for example, starts with a welcome to country ceremony, in which Aboriginal elders meet the Governor and welcome him to the area which has been their traditional tribal areas."

"The significance of this place was a ceremonial place for indigenous people, particularly for the Bururong or the Boonwurrung people or what we know as Wurundjeri today. Where they gathered and all the people of the Kulin nation came to

tell stories, to create performances. The acknowledgment of the opening of parliament for us as indigenous people gave us recognition in a more legal sense of the word, meaning accepted the laws of this land under Westminster system, acknowledging indigenous law.”

“So we have this interesting grafting on the one hand we’ve got a reference back to 1642 and on the other hand we’ve got a reference back still earlier back to Aboriginal occupancy of this land. So it’s an interesting kind of mixture of if you would like, the old and the very old.”

“I guess we have had a parliament of some form for almost nine hundred years now in one way or another. I think what’s important about that is the fact that it has survived despite problems, despite challenges, the parliament has been able to survive by being representative, by representing people, by representing viewpoints, and despite bumps along the way it nevertheless still persists.”

“We go to the ballot-box and we vote in our leaders and that’s a really important way of having a voice because it means that you effectively decide, or the majority of the population decides, who will represent us. And I guess that’s a really effective way of operating as well because we don’t necessarily want to be making every day to day decision that comes up, we allow leaders to do that on our behalf.”

“The freedoms that the government and the system here allows you to have, that you would probably not be able to have in other states and other countries. We can make the most out of our system by using the system.”

“Your elected officials aren’t going to ring you up directly and ask you what you want but you can certainly ring them. I have had several letters that I’ve sent to politicians responded to, and it doesn’t necessarily mean that they’re going to change their policy approach on something, but certainly if they get enough letters they will take it into account.”

“There is enough room for people to have a say and participate in the political life. You would have a vivid society, an engaged society.”

“It’s all to do with this process of trying to get right the details of the Constitution and trying to make the Westminster system work effectively for people, for the people of Victoria.”