

Australasian Parliamentary Review

JOURNAL OF THE AUSTRALASIAN
STUDY OF PARLIAMENT GROUP

Editor: Dr Sarah Moulds, Associate Professor in Law, University of South Australia



Elections in the United States

Raising your voice in parliament

Parliamentary procedure education for MPs
and more!



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of Parliament Group

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AUSTRALASIAN STUDY OF PARLIAMENT GROUP (ASPG) AND THE AUSTRALASIAN PARLIAMENTARY REVIEW (APR)

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AUSTRALASIAN PARLIAMENTARY REVIEW

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* Indicates that the article has been double-blind reviewed.

From the Editor

It is with great pleasure that I introduce this Edition of the *Australasian Parliamentary Review*. This volume reflects on several significant political and parliamentary developments that have occurred during the last two years – or that are emerging on the horizon. We hear from David Clune and Rodney Smith, from the University of Sydney, on the outcome and impact of the 2023 New South Wales (NSW) Election, and Andrew Cole, Parliament of South Australia, gives us his take on voter disengagement and the Voice to Parliament referendum. Kenneth Kitts, Professor of Politics from the University of North Alabama, also provides a useful refresher on elections in America, and Prasser makes the case against four-year terms for the Australian Parliament.

This volume also includes some insightful analysis on the comparative strengths and weaknesses of parliamentary petitions and committee inquiries in NSW from parliamentary officer and scholar Sabina Kozłowska, and Ben Reid, Parliament of Victoria, considers how data analysis can help us better understand electoral events. Alex Hickman, from the Parliament of Western Australia, shares thoughts on facilitating evidence by vulnerable witnesses to parliamentary committees and senior parliamentary officer Ramona Long, formerly of the Northern Territory Parliament and now at the Parliament of Tasmania, encourages us to ‘plant the seed’ when it comes to investing in parliamentary procedure education for Members.

The volume concludes with an introduction to a provocative new text on *Moral Disengagement* collated by Steve Davies, which invites us to share the difficult stories that reflect and capture what is really going on in the public sector in Australia, as a vehicle to the self-efficacy of public servants individually and collectively.

I express deep gratitude to all authors and reviewers involved in this publication and commend the contents to you.



Sarah Moulds

Associate Professor in Law, University of South Australia, May 2024

Comments

Elections in the United States of America

Kenneth Kitts

Professor of Politics, College of Arts, Sciences, and Engineering, University of North Alabama

The mechanics of elections in the United States of America (US) can be confusing for foreign observers – and often so for US citizens as well. Much of the confusion flows from the fact that the country’s electoral processes are a mix of constitutional provisions that date to the 18th century, a federal model which grants the states a significant degree of autonomy, and two large and entrenched parties that jealously guard their political influence. This brief comment piece seeks to demystify the topic by highlighting key themes, facts, and data points about American elections.

All federal elections in the US occur on the Tuesday after the first Monday in November in even-numbered years. This means that Election Day can fall on the calendar as early as November 2 and no later than November 8 in any given cycle. The provision for determining Election Day in this manner dates to the mid-1800s and is statutory, not constitutional, in its origin.¹

These biennial general elections include balloting, by single member district, for all 435 seats in the House of Representatives by dint of two-year terms for those lawmakers. By contrast, only a third of the one hundred Senate seats rotate onto the ballot in each cycle, with members in the upper chamber being elected by statewide constituencies

¹The law to establish a uniform date for presidential elections was passed in 1845. In 1872, Congress moved to align House elections with that same date. For details, see Congressional Research Service Report R46413, 2 November 2023. Accessible at: <<https://crsreports.congress.gov/product/pdf/R/R46413>>.

for a six-year term.² The offices of president and vice president are elected concurrently for four-year terms and appear on the ballot in every other election cycle. Consequently, general elections in the US are commonly referred to as being either ‘midterm’ or ‘presidential’ in nature despite the fact that most of the electoral activity in any cycle is for legislative branch offices.

Variation in the length of terms for federal offices is a product of the Constitution. The dispersion of terms ranging from two to four to six years underscores the desire by James Madison (the ‘Father of the Constitution’) and his fellow framers to have a mix of office holders: some elected to short terms – and thus highly responsive to the voters – with others more immune from popular impulses and able to take a longer view on policy issues by virtue of having more years in office.³

The constitutionally-prescribed nature of federal terms also means that there is no flexibility in the election schedule. The concept of a head of government calling a general election is alien to Americans. Instead, the fixed schedule places candidates at the mercy of events. Consider that Abraham Lincoln had to run for re-election as president in November of 1864 with the American Civil War raging into its fourth year. Similarly, Franklin Roosevelt had to take time out from his role as a wartime commander-in-chief to run for a fourth term in the middle of World War II. Still more recently, the presidential and congressional elections of November 2020 were held, on schedule, at the height of the coronavirus pandemic.

The rule of direct, popular election for members of Congress does not apply to the executive branch offices. The Constitution dictates the use of the Electoral College as an indirect means of electing the president and vice president, with each party’s candidates campaigning together as a partisan ‘ticket.’⁴ A state’s popular vote typically

²The Constitution originally provided for senators to be chosen by state legislatures, but the process changed to popular voting for Senate seats with passage of the Seventeenth Amendment in 1913. United States Constitution, Amendment XVII, 1913.

³ Shorter terms were the norm in the states at the time the Constitution was adopted. However, there was significant discussion at the Constitutional Convention about creating longer terms for the Senate as a counterweight to the more democratic House. E.K. Swift, *The Making of an American Senate*. Ann Arbor: University of Michigan, 1996, pp. 37-41.

⁴The original provisions of the Electoral College in Article II, Section 1, of the Constitution were changed with the Twelfth Amendment in 1801. It was that amendment which paved the way for the creation of presidential-vice presidential party tickets. United States Constitution, Amendment XII, 1801.

determines which ticket will win *all* of that state's allotted number of electoral votes in the Electoral College. This winner-takes-all provision, which is the law in 48 of 50 states, skews electoral outcomes and makes it possible for a presidential candidate to win the popular vote but lose the electoral vote and thus be denied the White House. Five US presidents have attained the nation's highest office in this manner after losing the national popular vote, including George W Bush in the election of 2000 and Donald Trump in 2016.

This disconnect between the popular vote and electoral vote is the most visible and consequential of many anomalous outcomes made possible by the Electoral College. These curiosities have been the subject of many books and articles.⁵ Although the system is byzantine, difficult to understand, and unpopular with the American people, the Electoral College is anchored in the Constitution.⁶ Any effort to abandon it in favour of direct election of the president would have to go through the arduous amendment process.

The president is the only federal office holder governed by term limits. Since ratification of the Twenty-Second Amendment in 1951, US chief executives have been limited to two full terms in office.⁷ Term limits at the state level are more common, with two-thirds of governors and one-third of state legislative seats featuring some type of restriction on the number of times an individual can be elected to those offices.⁸

It is important to emphasize that these elections for federal offices are administered by and through the individual states. This accounts for differences in the method of voting, poll hours, early voting options, voter eligibility and ballot access criteria, and

⁵ For a recent critique, see G. Edwards III, *Why the Electoral College is Bad for America*, 3rd edition. New Haven: Yale University Press, 2019.

⁶ M. Brennan, '61% of Americans Support Abolishing the Electoral College.' Gallup Organization, 24 September 2020. Accessed at: <<https://news.gallup.com/poll/320744/americans-support-abolishing-electoral-college.aspx>>.

⁷ The Amendment allows for two terms or a maximum of 10 years in office if a vice president's initial succession to the Oval Office occurs upon the death, resignation, or removal of the president with less than half of the term remaining. United States Constitution, Amendment XXII, 1951.

⁸ *The Book of the States*. Lexington, KY: Council of State Governments, 2021, p. 109; and 'The Term Limited States,' National Conference of State Legislatures, 3 August 2023. Accessed at: <<https://www.ncsl.org/about-state-legislatures/the-term-limited-states>>.

oversight of party primaries and caucuses. A recent example of state-to-state differences in the administration of federal elections revolves around efforts by a handful of states to keep Donald Trump off the presidential ballot, the format of which varies by jurisdiction, because of his role in the 6 January 2021, uprising at the US Capitol.⁹

Individual states can also decide whether Election Day is treated as a defined holiday. Most states have not gone that route, nor is the day designated as a national holiday. The result is that most Americans go to the polls on a Tuesday that looks and feels much like any other day of the work week save for the usual media exhortations on the virtues of voting. There is also no universal provision for paid time off from work to go vote, though approximately half the states have enacted measures along these lines to encourage greater turnout.¹⁰

In terms of timing, the states have great latitude to decide whether, as a matter of convenience, to append their own elections onto the federal schedule in November or to opt for a different arrangement. The calendar for gubernatorial elections serves to illustrate this point. Of the fifty current governors of American states, three were elected in 2023 (an off year in the federal cycle), eleven will be elected in 2024 (concurrent with the presidential election), two will be elected in 2025 (another off year for federal offices), and thirty-six states will elect their governors in 2026 (concurrent with the federal midterm elections).

Most governors are elected to four-year terms, but New Hampshire and Vermont are exceptions with two-year terms.¹¹ The vast majority of these elections take place in early November consistent with the federal model, but even that schedule is not universal. The governor of Louisiana was last elected in October of 2023.

The story of American elections gets even more complicated when party primaries and state legislative elections are thrown into the mix. There are also judicial elections in

⁹ Those efforts were ultimately struck down by the US Supreme Court in March of 2024. *Trump v Anderson*, 601 US (2024). Accessed at: <https://www.supremecourt.gov/opinions/23pdf/23-719_19m2.pdf>.

¹⁰ A. O'Connell-Domenech, 'Here Are the States Where People Get Time Off to Vote,' *The Hill*, 8 November 2022. Accessed at: <<https://thehill.com/changing-america/respect/equality/3725345-here-are-the-states-where-people-get-time-off-to-vote/>>.

¹¹ 'Governors' Powers and Authority,' National Governors Association, 2024. Accessed at: <<https://www.nga.org/governors/powers-and-authority/>>.

the majority of the states that choose judges in that manner.¹² Finally, there are elections for local municipal and county offices as well as school boards and other special purpose districts. Although local governments in the US are considered creatures of their home state for legal purposes, local elections often occur on a separate schedule that does not align with the calendar for state or federal contests.

If all of this seems complicated, it is! Variety is clearly the order of the day when it comes to US elections. Moreover, the fixed election schedule and staggering of terms, coupled with the interplay of local, state, and federal offices, means that the US stays in a perpetual election cycle. The result is confusion, long and expensive campaigns, voter fatigue, and – not surprisingly – a rate of voter turnout that is low by the standards of peer democracies.¹³ With rare exceptions, only presidential elections in the US. manage to stir enough interest to get a majority of the voting age population out to participate.¹⁴

There are obvious correctives available that could streamline elections and make voting a more appealing proposition in the US.¹⁵ However, progress toward enacting those measures has been limited. The reasons for this inaction are debatable, but it bears mentioning that change would require the approval of the very state and federal lawmakers who have already mastered the rules of the game as currently configured. For those officials, the system - however flawed - has demonstrated its utility by facilitating their own election to office.

¹² Choosing State Court Judges, Brennan Center for Justice, 2024. Accessed at: <<https://www.brennancenter.org/our-work/research-reports/judicial-selection-data-other-resources>>.

¹³ 'U.S. Voting Age Turnout is Still Behind Many Other Countries,' Pew Research Center, 1 November 2022. Accessed at: <https://www.pewresearch.org/short-reads/2022/11/01/turnout-in-u-s-has-soared-in-recent-elections-but-by-some-measures-still-trails-that-of-many-other-countries/ft_22-10-17_globalturnout_dot/>.

¹⁴ Historical Reported Voting Rates, US. Census Bureau. Accessed at: <<https://www.census.gov/data/tables/time-series/demo/voting-and-registration/voting-historical-time-series.html>>.

¹⁵ E.J. Dionne and M. Rapoport, *100% Democracy: The Case for Universal Voting*. New York: The New Press, 2022.

As evidenced by this summary, electoral processes in the US are broadly reflective of the country's history, size, and diversity. Though far from perfect, they provide legitimacy for those who govern. They also capture the country's democratic spirit. Elections invoke Lincoln's challenge to maintain 'government of the people, by the people, and for the people' and are important in understanding the American political ethos.¹⁶

¹⁶ A. Lincoln, 'Gettysburg Address.' Speech, Gettysburg, PA, 19 November 1863. 'American Speeches,' US National Archives.

The case against four-year terms for the Commonwealth Parliament

Scott Prasser

Former senior policy officer and researcher in federal and state governments and ministerial offices

INTRODUCTION

This article reviews the arguments for and against the introduction of four-year, fixed terms for the Commonwealth Parliament. It was prompted by Prime Minister Albanese's comments this year that the Parliament's 'terms are too short with just three years'.¹ The Commonwealth is the only Australian legislature without four year, fixed terms.

This triggered renewed interest in this issue with opposition leader Peter Dutton and the Business Council of Australia expressing support.² Dutton has been joined by former prime minister John Howard, who led the opposition's campaign against the Hawke Government's 1988 four-year term referendum. That proposal received the second lowest national vote in the referenda held since federation.³

¹ A. Albanese, Transcript, Press Conference, 3 January 2024.

² P. Coorey, 'Peter Dutton supported Anthon Albanese on the idea of four-year terms of federal parliament but says the public may not like it', *Australian Financial Review*, 13 March 2024.

³ The vote was 32.9 per cent – the 'Rights and Freedom' referendum held at the same time received just 30.7 per cent.

With these developments, the issue now is whether there might be bipartisan support for another referendum sometime in the future. A referendum is necessary because section 28 of the *Australian Constitution* states:

Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

The House of Representatives has a maximum of three years with the flexibility for an early election. The Senate has a fixed term with senators elected for six years with half retiring for re-election every three years with exceptions for territory senators. Only if the conditions of section 57 of the *Australian Constitution* are met can a double dissolution of both houses of parliament be called.⁴

Although the drafters of the *Australian Constitution* followed many overseas practices, they rejected the then United Kingdom's House of Commons seven-year terms⁵ and the four-year fixed terms of US presidents. Three-year terms operated across the six colonies and that was followed.

THE ARGUMENTS FOR FOUR YEAR TERMS

Since federation several reviews have recommended a range of different options including in some cases four-year terms for both houses.⁶ Four-year fixed terms for both houses has long been Labor Party policy.

⁴ The conditions are that if legislation proposed by the House of Representatives fails to pass the Senate or does so with unacceptable amendments, and this legislation is resubmitted after a period of three months and fails to pass again with acceptable amendments, then the *Australian Constitution* states the 'Governor-General may dissolve the Senate and the House of Representatives simultaneously'.

⁵ Five-year terms began in 1911 following the constitutional crisis between the House of Commons and the House of Lords.

⁶ The Royal Commission into the Constitution (1927) proposed four-year terms for the House of Representatives but not the Senate; Australian Constitutional Convention – Adelaide (1983) proposed four years for both houses; Constitutional Commission (1988) recommended four years for Representatives with minimum of three, and Senate for two terms of the lower house.

The arguments currently being put in favour of four-year, fixed terms are the same now as they were made to the 1988 Constitutional Commission.

Foremost of these is that it ‘would improve the quality of government’⁷ by allowing governments more time to develop policies that are ‘bold and unpopular’⁸ but essential and less compromised by an impending election or as one then parliamentarian said it, ‘would enable parliamentarians to concentrate on decision making unaffected by possible electoral backlash’.⁹

Second, fixed terms would be fairer for oppositions as incumbent governments would be unable to gain any advantage by calling an unexpected early election to coincide with some popular event or to exploit some crisis.

Third, business argued then¹⁰, as now, that the three-year electoral cycle and unpredictable elections is disruptive, delays government decision making, slows down the economy and investment, and undermines consumer confidence. Business wants political stability for as long as possible, so four-year fixed terms meet that demand.

Fourth, four-year fixed terms would mean less elections, save money and reduce alleged ‘voter fatigue’.¹¹

Last, the Prime Minister reminded us of another reason – everyone else has four-year terms – all the states and territories and most other countries, so why not Australia?¹²

⁷ Constitutional Commission, *Final Report*, Canberra: Australian Government Publishing Service, 1988, p. 200.

⁸ Dr N.R. Norman, quoted in Constitutional Commission, *Final Report*, p. 200.

⁹ C. Miles, quoted in Constitutional Commission, *Final Report*, p. 200.

¹⁰ E. Mayer, quoted in Constitutional Commission, *Final Report*, p. 200.

¹¹ C. Rhodes, ‘How often should we have an election – every three years or every four?’ Museum of Australian Democracy, 27 July 2017. Accessed at: <<https://www.moadoph.gov.au/explore/stories/democracy/how-often-should-we-have-an-election-every-three-years-or-every-four>>.

¹² A. Albanese, Transcript, Press Conference, 3 January 2024.

ASSESSMENTS

The trouble with these arguments is they are more statements of faith than those supported by strong empirical evidence.

For instance, there is little evidence that those countries with longer terms have performed better than Australia in running their economies or implementing needed reforms. Neither the United Kingdom and France with five-year terms nor the United States with four, are exemplars of good policy practice or reform initiatives.

Neither have Australian states or territories with their fixed four-year terms been more accountable, reined in overspending, reduced waste, or adopted a long-term policy on anything. They limp and react from crisis to crisis.

Anyway, if hard decisions are needed is it not better in a democracy for governments before initiating major policy change to first speak truth to the people and gain the electorate's support. Is this not better than only making announcements once in office and hoping the electorate will have forgotten four years later a government's disingenuousness.

Let us not forget that the OECD once signalled Australia with its three-year terms as an international leader in achieving economic and social reforms:

Australia's current economic outcomes place it among the top performers of the OECD. This owes much to good combination of prudent, medium and long term fiscal and monetary policies and far-reaching reforms to labour, product and financial markets ...The Government's commitment to reform, its willingness to commission expert advice and heed it, and its patience to build constituencies that support further reforms is something other countries could learn from.¹³

¹³ OECD, *Australia: At Glance*, Paris: OECD, 2003, p.15.

It is not three-year terms holding back overdue reform in Australia today. Rather, it's the lack of policies to achieve it, the commitment to do it, the political skills to implement it and the business sector's willingness to campaign for it.¹⁴

Also, it too simplistic to say incumbent governments call early elections only for political advantage. A double dissolution might be provoked for the legitimate reason of seeking to overcome an obstinate Senate. An early election might be to renew a government's mandate on an important issue. Howard went twelve months early in 1998 and almost lost office to gain endorsement for the Goods and Services Tax (GST). Surely being upfront was good for democracy and ensured overdue reform happened more quickly.¹⁵ And going early can backfire as it nearly did for Hawke in 1984.

Moving to four-year terms for the House of Representatives would result in senators having eight years terms – surely far too long although happening across the states for their upper houses. It would also render section 57 of the *Australian Constitution* a 'virtual dead letter'¹⁶ allowing simultaneous elections for both houses. Referenda to have simultaneous elections for both houses have been rejected three times by the Australian people (1974, 1977, and 1984).

There is little evidence that frequent elections are as disruptive to business investment or consumer confidence as claimed. Australia enjoys a stable investment environment. It is excessive regulation, high costs and our poor industrial relations system, not three-year terms, that adversely impacts business and the economy.

Further, it seems extraordinary that anyone in a democracy could complain about too many elections that we fought so hard to get. That it leads to 'voter fatigue' must be questioned as the evidence is slim, usually commissioned polling. Moreover, in a federal system, frequent elections are to be expected and surely welcomed.

¹⁴ Gary Banks, 'Australia's Productivity Malaise: Reflections on the 'Debate'', *Edward Shann Memorial Lecture*, University of Western Australia, 16 August 2023.

¹⁵ Moves for a GST began with the 1975 report by the Asprey Taxation Review Committee.

¹⁶ John Nethercote, 'The Parliamentary Terms Referendum: Some Bicameral and Representational Issues', in Brian Galligan and J.R. Nethercote, (eds), *The Constitutional Commission and the 1988 Referendums*, Canberra: Centre for Research on Federal Financial Relations, ANU and RIPAA, 1989, p. 61.

As to the cost of elections, put that into perspective. The last federal election cost \$522million – a lot of money but just \$34 per voter – not much for the right to choose a government in one of the world’s best run electoral systems. If public expenditure is a concern, then read any Auditor-General report and count the waste – start with defence projects.

And the prime minister’s ‘everyone is doing it’ gibe is surely just another example of the Australian cultural cringe. Whatever happened to Australian exceptionalism? Not everyone does compulsory voting like us so perhaps that should be dropped?

CONCLUSION

Lastly, do we really want to give 227 federal politicians (with more rumoured) one extra day in office, and senators eight-year terms? Longer terms just give politicians more time to get away with broken election promises, hoping we forget after four years. Surely, elected representatives should face the people often, not less so we can hold them to account. One reform needed is for our parliaments to sit longer. Federal Parliament sits about a third of the days compared to many overseas counterparts. That’s one overseas practice no current politician mentions

.

Speeches

Facilitating evidence by vulnerable witnesses to parliamentary committees - recent Western Australian experiences

Alex Hickman¹

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INTRODUCTION

Effective community engagement assists parliamentary committees gather the best possible evidence for inquiries. This ensures inquiry reports contain factually based and relevant findings and recommendations.

If persons with relevant information, including witnesses regarded as vulnerable, do not or are unable to give evidence, committees may not fulfil their terms of reference and provide the right information to the Parliament. This may adversely affect Parliament's reputation if it does not have the right evidence to address issues the subject of committee inquiries. Therefore, any barriers to obtaining evidence should be minimised as much as possible.

Parliamentary committees have, historically, been quite conservative in their evidence gathering methods. These include holding hearings in formal settings. This can be intimidating for potential witnesses and a disincentive for them giving evidence.

To address this, the Western Australian Parliament is assisting to facilitate vulnerable witnesses giving evidence in committee inquiries.

This article constitutes an edited version of a speech given at the Australia and New Zealand Association of Clerks-at-the-Table (ANZACATT) conference in Darwin on 23 January 2024. It discusses who are regarded as vulnerable witnesses; the challenges in

¹ This is the edited version of a speech Alex Hickman delivered in Darwin on 23 January 2024 at the Australia and New Zealand Association of Clerks-at-the-Table conference hosted by the Northern Territory Parliament.

obtaining their evidence; what their evidence can offer as well as steps parliamentary committees can take to facilitate receiving this evidence. This is illustrated by examples from recent Western Australian parliamentary committee inquiries.

The article also discusses whether parliaments owe vulnerable witnesses a legal duty of care and the risk of vicarious trauma to parliamentary staff. Further, it provides an overview of some of the guidelines and protocols in place in Australian jurisdictions to manage evidence from vulnerable witnesses.

WHO IS A VULNERABLE WITNESS?

‘Vulnerable’ is defined in the Macquarie Dictionary as: ‘susceptible to being wounded’, ‘liable to physical hurt’, ‘not protected against emotional hurt’, ‘highly sensitive’.²

There is general consensus about who may be a vulnerable witness, regardless of the forum in which they are giving evidence. This is reflected in legislation in various Australian jurisdictions.³

People in the following groups may be vulnerable due to challenges in their life circumstances or other relevant factors:

- people who have experienced emotional trauma
- people with a mental illness
- people with a disability
- children and young people
- elderly people

² Macquarie Dictionary, 6th edition, p 1651.

³ *Evidence Act 1906* (WA), s 106R(3) contains a definition of a ‘special witness’ who is:

A person which the court is satisfied would, by reason of a *physical or mental impairment*, be unlikely to be able to give evidence or to *give evidence satisfactorily* or be likely to suffer *severe emotional trauma* or to be so *intimidated or distressed* as to be unable to give evidence satisfactorily or a complaint to a *serious sexual offence*. Includes protection of alleged victim from direct cross-examination by the offender in certain circumstances.

- First Nations people
- newly arrived migrants and people for whom English is not a first language
- family carers
- victims of crime
- those who, by giving evidence, expose themselves or others to risk.

They may, by giving evidence, experience intimidation, stress and emotional trauma and risk other mental and physical harm. This may result from an inquiry triggering trauma from their lived experience.

Understanding the nature of vulnerability in the context of committee inquiries is paramount. To assist, the characteristics of individual witnesses, the type of issue under inquiry and points of potential risk during the inquiry process can be considered.

However, it is important not to assume a witness is vulnerable merely by falling into any of the recognised groups. An individual assessment of their circumstances should be undertaken. They may, for example, have a great capacity for resilience that enables them to adequately cope with giving evidence. Conversely, someone who does not fall into any of the groups may become vulnerable during an inquiry hearing. This could occur because of the effect of a particular question on them or due to acute stress arising from the experience of giving evidence. This cannot always be anticipated.

Accordingly, a case-by-case approach is most appropriate when assessing whether any vulnerability, caused by challenges in their life circumstances, requires support to enable the witness to fully participate in an inquiry.

DUTY OF CARE TO VULNERABLE WITNESSES?

Do parliaments owe vulnerable witnesses a legal duty of care to prevent physical and psychological harm resulting from them giving evidence?

In her paper to the 2016 ANZACATT conference in Wellington, Teresa McMichael stated that the New South Wales Clerk of the Parliaments sought the Crown Solicitor's

advice on the liability of Legislative Council staff in adopting a vulnerable witness protocol.⁴ While this advice was kept confidential, the author stated:

In general terms it [the advice] tended toward the view that the adoption of a well prepared policy was preferable to having no policy at all and leaving staff to respond to situations in an ad hoc manner.

There does not appear to be a direct legal precedent on this question. However, the New South Wales District Court has more recently considered whether there was a duty of care owed by police officers to a witness to a prosecution. This is useful because this relationship is similar to that between a parliamentary officer and a witness to a committee inquiry.

In *Auditore v State of New South Wales*,⁵ a witness brought an action for damages for negligence against the State of New South Wales. The alleged negligence resulted in psychiatric injury arising from her having a sexual relationship with a police officer investigating her former boyfriend. The witness referred to grooming and manipulative behaviour to a vulnerable person.

Her Honour Judge Gibson considered whether a duty of care existed:

*There are no decisions on this issue in Australia that I am aware of, but English courts have held that there is no duty to a witness by police officers involved in the case in which they are a witness. In *Robinson v Chief Constable of West Yorkshire Police* [2014] EWCA Civ 15, Hallett VP stated this as a general principle:*

Thus, there can be no doubt: the core principle of Hill remains. At paragraph 30 Lord Steyn observed: "It is, of course, desirable that police officers should treat victims and witnesses properly and with respect: compare the Police (Conduct) Regulations

⁴ McMichael, T, 'Support for Vulnerable witnesses', paper presented at the ANZACATT conference, New Zealand 2016, p 5.

⁵ [2017] NSWDC 150.

2004 (SI 2004/645). But to convert that ethical value into general legal duties of care on the police towards victims and witnesses would be going too far. The prime function of the police is the preservation of the Queen's peace. The police must concentrate on preventing the commission of crime; protecting life and property; and apprehending criminals and preserving evidence.

In PBD and Another v Chief Constable of Greater Manchester Police, Silber J rejected a claim for psychiatric injury brought by a person in witness protection who had been inadvertently put in the presence of a former associate. His Honour held that (at [36]-[37]) there was a more basic reason why no duty of care would be owed to the plaintiff, in that the police did not owe a duty of care to witnesses and victims. Silber J concluded that it was not possible to see why someone in the plaintiff's position (who was a suspect about to be charged with a money laundering offence), ought to be owed a duty when a witness and a victim did not have such a duty owed to him: see Brooks v Metropolitan Police Commissioner [2005] All ER (D) 287 (Apr); Chief Constable of Hertfordshire Police v Van Colle; Smith v Chief Constable of Sussex Police [2008] 3 All ER 977; An Informer v A Chief Constable [2012] All ER (D) 31 (Mar).⁶

Accordingly, it is unlikely parliamentary staff owe witnesses a specific duty of care. This is because it would be inconsistent with the discharge of their responsibility to the Parliament to assist in gathering the best evidence for committee inquiries. Indeed, the existence of such a duty could have a chilling effect on discharging this responsibility. However, as each inquiry is unique, as is the interaction with vulnerable witnesses,

⁶ *Auditore v State of New South Wales* [2017] NSWDC 150 at [34]-[35].

obtaining legal advice may be necessary. This is supported by the fact that Her Honour recognised the existence of special circumstances that may give rise to a duty of care.⁷

It could be argued, however, that Parliament at least owes vulnerable witnesses a moral duty to ensure steps are taken to reduce the impact of inquiry processes on them. This is because the Parliament has asked for their assistance in providing evidence to its inquiry.

CHALLENGES IN OBTAINING EVIDENCE FROM VULNERABLE WITNESSES

Vulnerable witnesses may avoid engaging in formal inquiry processes because their ability to participate is impaired. This can present numerous challenges in obtaining their evidence. These include:

- securing trust from committee members and staff
- using non-traditional engagement and evidence collecting methods
- disengagement
- managing expectations arising from participating in the inquiry process
- addressing perceptions of giving evidence to Parliament
- a lack of understanding of inquiry procedures, including the status of evidence
- public exposure and media attention
- identifying the appropriate level of required support.

The Western Australian Parliament is addressing these challenges. This has assisted vulnerable witnesses in fully participating in committee inquiries and providing quality evidence. This is illustrated in the case studies discussed below.

⁷ *Auditore v State of New South Wales* at [29].

WHAT VULNERABLE WITNESSES OFFER PARLIAMENTARY COMMITTEE INQUIRIES

Witnesses who have suffered physical or psychological harm through lived experience often have a unique and compelling insight into issues a parliamentary committee is investigating. Their evidence can illustrate the harm being caused and lead to a better understanding of possible solutions. The case for reform may be stronger when taking their evidence into account. Without it, a committee may not sufficiently appreciate the extent of the seriousness of the issues and the impact it is having on the community.

This underscores the importance of ensuring committee inquiries are accessible to all who have relevant evidence. Customising an approach at each stage of the inquiry process can assist vulnerable witnesses engage with the committee and make a valuable contribution. In turn, they help make the case for reform.

The risk of vicarious trauma

When staff engage with and are exposed to confronting evidence by vulnerable witnesses, there is a risk of them experiencing what is referred to as ‘vicarious trauma’. This has been recognised as a process of change resulting from empathetic engagement with trauma survivors.⁸

Staff may potentially develop post-traumatic stress disorder if this risk is not mitigated by providing appropriate training and support. This may include peer and leadership support programs, rotation of staff on certain inquiries to manage exposure to traumatic evidence and vicarious trauma training.

METHODS TO FACILITATE VULNERABLE WITNESSES GIVING EVIDENCE

At each stage of the inquiry process, parliamentary staff and committee members can adopt strategies and take steps that facilitate receiving evidence.

⁸ British Medical Association: ‘Vicarious trauma: signs and strategies for coping’. Accessed at: <<https://www.bma.org.uk/advice-and-support/your-wellbeing/vicarious-trauma/vicarious-trauma-signs-and-strategies-for-coping>>.

It is important staff, when developing these strategies, ensure vulnerable witnesses give informed consent and respect and facilitate the choices they make about their evidence. Remember – it is their evidence to give.

Some of these suggested strategies and steps are as follows.

Inquiry pre-commencement meeting

Forward planning is important for any inquiry, but especially so when determining what special measures need to be taken to support vulnerable witnesses.

If a committee inquiry will benefit from evidence from vulnerable witnesses, staff can brainstorm the steps that need to be taken at each stage in the inquiry process. This will help identify risks to witnesses, staff and members and how they should be managed and the resources required.

An important step is to arrange for staff (and members, if they agree) to be briefed on trauma awareness by a suitable organisation and arrange access to counselling when required as early as possible. This will help prepare them for dealing with evidence from vulnerable witnesses.

Inquiry commencement

After the inquiry has commenced, the committee can receive recommendations on how to best obtain evidence from any vulnerable witnesses and manage risks. This may involve, as a first step, including in the first media release a list of support services that potential witnesses can access. Another is identifying which stakeholder groups may contain vulnerable witnesses and how they should be approached.

Some suggested steps when inviting and receiving submissions include:

- consider asking a representative group to assist identify vulnerable witnesses
- considering the submission period and whether an extended timeframe is appropriate, taking into account the challenges faced by witnesses when making a submission about traumatic experiences (see Case Study 1 below)
- considering carefully whether some submissions should be given a private status or if information needs to be redacted
- considering obtaining consent for public/private status in writing for submissions containing sensitive material

- ensuring sensitive material is discussed with the witness and redacted if appropriate, which could also include redacting their name
- ensuring the witness is aware that their submission will be published on the committee's website if given a public status
- informing witnesses they may withdraw their submission at any time up to the point of report finalisation
- preparing a submission summary that identifies whether a submitter is likely to be a vulnerable witness, if possible.

Case Study 1: Standing Committee on Environment and Public Affairs inquiry into past forced adoptive policies and practices

This inquiry arose from a petition tabled in the Legislative Council of Western Australia calling for the Parliament to investigate 'the systematic and systemic removal of newborns from their mothers' care via past adoptive practices from 1939 onwards'.

The Committee posted documents on its website explaining the background to the inquiry, information on making submissions and suggested questions and topics to assist those wishing to make a submission. Also included were a list of counselling and other support services.

The Committee resolved to extend the submission deadline following feedback, given the sensitive nature of the inquiry.

Guidance explained that submissions would not be published without consent and that video and audio submissions would also be accepted. Copies of this guidance can be obtained on the Committee's website.⁹

⁹ See Parliament of Western Australia, 'Parliamentary Business, Committees, Environment and Public Affairs, Inquiry into past forced adoptive policies and practices', Website, Accessed at: <www.parliament.wa.gov.au>.

Planning hearings

When planning hearings to receive evidence from vulnerable witnesses, certain matters can be considered to ensure the best environment possible to secure their evidence and put them at ease.

These matters could include discussing the hearing room layout, which could be modified to provide a less imposing set up for witnesses, such as a round table or outside when obtaining evidence from First Nations people (see Case Study 2 below).

Less formal clothing attire and adopting an appropriate line of questioning from Members to reflect witness vulnerability can also be considered.¹⁰

Additionally, private hearings to ensure the confidentiality of evidence is recommended, though they could be public at the discretion of the committee and subject to witness feedback (see Case Study 3 below).

A Chair's opening statement (an example that is part of the Western Australian Legislative Council's *Guidelines for engaging with vulnerable witnesses* is attached as the Appendix) can also be a helpful tool.

Case Study 2: Select Committee into Child Development Services

The Select Committee was established to examine child development services in Western Australia. This arose from concerns about the long wait times for children's health and development services and its impact on a child's development, health and well-being. The Committee is examining the reasons for these delays and what improvements can be made. Its Interim Report is available on the Western Australian Parliament website.¹¹

As part of its evidence gathering, the Committee held informal discussions with 3 indigenous members of the Bidyadanga community at an outside table. Hansard was

¹⁰ A more detailed list can be found in the author's paper submitted to the ANZACATT conference, available on request.

¹¹ See Parliament of Western Australia, Parliamentary Business, Committees, Select Committee into Child Development Services, Website, Accessed at: <www.parliament.wa.gov.au>. Following the tabling of this committee's final report, it can be found by clicking on Committees, then Past committees.

not present and they were not formally sworn in. The Chair asked questions and the Advisory Officer took notes. Everyone was casually dressed and Committee members and staff were not seated directly facing the witnesses. As English was not their first language and they did not feel comfortable giving evidence at a formal committee hearing, these steps facilitated them telling the Committee their stories.

Hearings

At all stages during inquiry hearings, witnesses should be made to feel as comfortable as possible and reassured their welfare is taken seriously and their attendance valued. Although it is impossible to anticipate everything that may occur, being well organised and as prepared as possible will assist.

Staff should ensure the trauma counsellor is in the waiting/recovery room before the witness arrives. Once they have met the witness at the arranged location, they can be accompanied to this room, speak to the counsellor if they need to and wait to attend the hearing.¹²

When the committee and the witness are ready, they should be escorted into the room (with their counsellor or support person/therapy animal, if they wish). The Chair's opening statement can assist in putting the witness at ease, acknowledging how they must be feeling and that they can take a break at any time.

Once the witness has given any opening statement, the line of questioning from Members should, ideally, reflect their level of vulnerability and avoid placing them under unnecessary pressure or stress.

Escorting the witness to the waiting/recovery room after the hearing enables them to debrief with their counsellor or support person helping to place them in a better frame of mind before they depart.

¹² The regional and Perth based hearings held as part of the Standing Committee on Environment and Public Affairs' inquiry into past forced adoptive policies and practices were conducted in a sensitive manner and supported by trauma informed counsellors.

Case Study 3: Standing Committee on Estimates and Financial Operations Inquiry into the financial administration of homelessness services in Western Australia

The Committee considered the current funding and delivery of homelessness services in Western Australia, including the Government's 10-Year Strategy on Homelessness 2020-2030 and existing data systems and how they inform service delivery.

The Committee held private and public hearings with people with lived experience of homelessness. While private hearings are often the appropriate forum for lived experience evidence, there were some public hearings that proved empowering for witnesses. They were also reported in the media.¹³ This enabled public dissemination of the issues and raising the profile of the Committee's work and the hardships being experienced by those experiencing homelessness.

Following the hearing

Continued contact with the witness by parliamentary staff after the hearing recognises that, although they have given their evidence, the trauma of having done so may not have fully subsided. Indeed, despite the assistance of counsellors and other support, sharing their lived experience may have a lengthy impact. Some of the following steps are appropriate:

- Send a thank you email attaching the draft transcript, which could also attach a list of support services.
- When report writing, send the witness any quotes from their transcripts you wish to use for their approval. They can be assured they won't be personally identified but that the quotes are just being used as examples of lived experiences (see Case Study 4 below).
- When tabling the report:

¹³ Hamish Hastie, 'Perth's rental housing crisis laid bare', *WAtoday*, 18 October 2022.

- inform witnesses by email about the tabling date and include a link to the tabling broadcast, alerting them to what might trigger emotional trauma
- consider inviting witnesses to attend the public gallery to see the report being tabled, if appropriate
- Send the Government response, once tabled, to the witness and ask if they have any questions.

In the author's opinion, these strategies and steps reflect Parliament's moral duty to vulnerable witnesses proposed above.

Case Study 4: Community Development and Justice Standing Committee inquiry into sexual harassment against women in the FIFO mining industry

The Committee's goal, through this inquiry, was to drive cultural, procedural and legal change in the FIFO mining industry. This was to ensure a renewed approach to defining, monitoring, responding to and reporting workplace safety regarding sexual harassment against women.

The Committee's report contains a selection of quotes from evidence of women who had experienced sexual abuse, harassment and assault. The Committee found this to be 'unlawful and criminal behaviour much of which has been ignored or overlooked by employers.'¹⁴

All personal, company and site names and any other identifying information was removed from the quotes provided. Each quote was sent to the relevant individual to obtain their consent and give them an opportunity to raise any issues. This was an effective method of obtaining their informed consent and protecting their identity while also enabling their lived experience to be shared in the report.

In her Foreword to the report, Committee Chair Libby Mettam MLA acknowledged the positive experience participating in the inquiry had on those who shared their lived experiences:

¹⁴ Community Development and Justice Standing Committee, report 2, 'Enough is Enough' Sexual harassment against women in the FIFO mining industry, Western Australia, Legislative Assembly, 23 June 2022.

Many of the women who made submissions to the inquiry said this was the first time they had told of their experience to anyone. We are glad the inquiry process was trusted and acknowledge their courage in being prepared to share their experiences in the hope it would improve the situation for others. Other inquiries and truth engagement processes have demonstrated that there is a positive healing power for victims of trauma if their experiences are heard in a safe and supportive formal complaint handling process.

SUMMARY OF GUIDELINES/PROTOCOLS IN PLACE IN AUSTRALIAN JURISDICTIONS

Whether being proactive or reactive, it is a good idea for parliaments, as a first step, to develop guidelines that govern how evidence is best obtained from vulnerable witnesses.

One of the first to do so was the Legislative Assembly for the Australian Capital Territory, which developed a *Vulnerable Witness Protocol* in 2017.¹⁵ This excellent document comprehensively considers:

- characteristics of vulnerable witnesses
- points of potential risk during the inquiry process
- how vulnerable witnesses can be supported and protected, including ensuring they give informed consent
- protecting the health and wellbeing of committee staff and members.

It also contains a protocol for responding to high-risk situations.

The Department of the House of Representatives of the Federal Parliament released a *Guide to managing sensitive and high-risk committee inquiries* in August 2022. This includes recommendations on undertaking risk assessments and putting in place appropriate controls at the start of an inquiry. Part of this is developing a mental health and wellbeing plan to manage potential risks to staff working on an inquiry. It contains

¹⁵ ACT Legislative Assembly, Office of the Legislative Assembly, *Annual Report 2017-2018*, p 19.

helpful case studies for illustration. An appendix is dedicated to vicarious trauma, which underlines the importance of putting supports in place to manage this risk.

The Victorian Parliament, in an appendix to its *Procedures Manual*, contains *Guidelines for protecting the privacy, safety and wellbeing of inquiry participants at risk*.

The New South Wales Legislative Council's *Practice and Procedure Manual* contains a section on vulnerable witnesses. It lists some steps to 'facilitate a positive experience for vulnerable witnesses giving evidence to a committee at a hearing'. These include checking whether they have support mechanisms in place and arranging for them to wait in a private room before giving evidence.

The Western Australian Legislative Council's *Guidelines for engaging with vulnerable witnesses*, referred to above, was developed in 2023. It contains actions during the inquiry process outlined above to facilitate vulnerable witnesses giving evidence. It also lists available support services for committees to provide as required. These guidelines have been of assistance in ongoing inquiries.

CONCLUSION

Having effective processes in place to facilitate evidence from vulnerable witnesses protects their safety and well-being. This is consistent with what has been suggested is a moral duty parliaments owe to vulnerable witnesses. It also assists parliamentary committees to obtain evidence of lived experience that helps address issues the subject of inquiries. Further, providing care and support for parliamentary staff is consistent with good workplace health and safety practices.

Examples from recent parliamentary inquiries in Western Australia demonstrate a commitment to best practice in gathering evidence from vulnerable witnesses. This will continue to evolve as further experience is obtained in future inquiries. Of course, not all scenarios can be anticipated or catered for, regardless of the quality of guidance material and support.

APPENDIX – CHAIR’S OPENING STATEMENT

On behalf of the Committee, I welcome you to the hearing.

We acknowledge that you may be feeling uncertain about today’s hearing and the inquiry process, so thank you for attending today.

Please take a break any time you need to. Counselling support is available to you if you feel it would help you. Feel free to stay afterwards to utilise that service.

The transcript of this hearing will be private evidence, so it won’t be published online and can’t be published unless the committee resolves to do so. We will liaise with you to agree on what can be used as part of the inquiry report.

You requested to attend a hearing with us, so this is your opportunity to say what you’d like to say regarding the inquiry and the terms of reference. We have read the written submission you sent to us earlier in the inquiry.

[We note that your support person is present here with you today. They are welcome to remain here with you to support you but cannot give evidence or speak on your behalf as they are not a witness.]

Do you have any questions?

Do you have any opening remarks before we begin questions?

Articles

Raising your voice in Parliament? The comparative strengths and weaknesses of Parliamentary Petitions and Committee Inquiries in NSW*

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* Double-blind reviewed article.

Abstract: Despite their long history as tools for public engagement, questions have been raised about the extent to which parliamentary petitions and parliamentary committees contribute to effective public participation in parliamentary processes. Particular criticism has been directed at parliamentary petitions with a growing number of voices questioning their relevance and suggesting that citizens' interests could be more effectively addressed by other means. This article will look at the key features of the petition and the committee process and attempt to establish their respective strengths and weaknesses having regard to a case study of government responses to petitions and committee reports in the 55th NSW Parliament.

INTRODUCTION

As documented in the 2022 Special Edition of the *Australasian Parliamentary Review*, connecting parliaments with the citizens they serve is a fundamental and urgent task of all modern parliaments. It is also part of Australia's international commitments to

facilitating meaningful democratic participation under international human rights law and other agreements to which Australia is a voluntary party.¹

This article will explore the extent to which public participation in parliamentary committee inquiries and/or in petition processes provides meaningful avenues for this form of public engagement with parliamentary lawmaking, having regard to a specific case study from New South Wales. The case study quantitatively compares government responses to petitions versus committee reports in the 55th NSW Parliament. This analysis is supplemented by practitioner insights into key aspects of citizen engagement with these processes, and the timeliness of government responses. It aims to provide a more detailed overview of how receptive different lawmakers are to these two processes for receiving citizen input into the lawmaking process.

Currently, there is a perception that parliamentary committees are an effective participatory tool², while parliamentary petitions are more limited in terms of richness of experience and legislative impact.³ For example, Handley suggests that rather than petitioning parliament, it may be a better option to make representation to a particular committee or directly to a relevant department.⁴

While it is beyond the scope of this article to provide a comprehensive evaluation of either parliamentary committee inquiries or petitions, it is hoped that by considering key features of both processes through the lens of someone who comes from a different legal and institutional perspective, I can offer some fresh insights into which aspects of these processes should or could be invested in or reformed in the future.

¹ See, for example, United Nations (General Assembly), 1966, 'International Covenant on Civil and Political Rights.' Treaty Series 999 (December): 171; Attorney-General's Department, 'Australia's Open Government Partnership'. Accessed at: <<https://www.ag.gov.au/rights-and-protections/australias-open-government-partnership>>.

² For example, A. Brazier, and R. Fox, 'Reviewing Select Committee Tasks and Modes of Operation'. *Parliamentary Affairs*, 64(2) 2011, pp. 354–369; R. Webber, 'Increasing Public Participation in the Work of Parliamentary Committees', *Australasian Parliamentary Review* 16(2), pp. 110–20.

³ For example, R. Handley, 'Petitioning Parliament', *Federal Law Review* (21) 1993, pp. 290-307; R. Hough, 'Do Legislative Petitions Systems Enhance the Relationship between Parliament and Citizen?', *The Journal of Legislative Studies* 18(3-4) 2012, pp. 479-495.

⁴ Handley, 'Petitioning Parliament', p. 302.

THE RIGHT TO PARTICIPATE IN PARLIAMENTARY PROCESSES

Political self-efficacy, ‘the feeling that political and social change is possible, and that the individual citizen can play a part in bringing about this change’⁵ is a necessary element of effective democracy.⁶ The Organization for Economic Co-operation and Development (OECD) emphasises that:

Strengthening relations with citizens is a sound investment in better policy-making and a core element of good governance. It allows government to tap new sources of policy-relevant ideas, information and resources when making decisions. Equally important, it contributes to building public trust in government, raising the quality of democracy and strengthening civic capacity. Such efforts help strengthen representative democracy, in which parliaments play a central role.⁷

In line with Australia’s Westminster heritage, two processes have emerged as providing avenues and forums for citizens to raise their concerns, views and legislative priorities directly with parliament (as a complement or alternative to exercising their right to vote at periodic elections). These are: participation in parliamentary inquiries conducted by parliamentary committees and initiating or signing petitions. Both processes have a long and rich history. For example, the right to petition the monarch and parliament to address a grievance or resolve an issue date back to the 13th century in Britain. Early bills originated with petitions to which the monarch had agreed.⁸ Petitions in their current form date from the 17th century.⁹ In the Australian Parliament, one of the most famous petitions was presented to the House of Representatives in 1963 by a member on behalf of the Yolgnu people of Yirrkala in the Northern Territory. It requested that the Parliament recognise their traditional land on

⁵ A. Campbell, G. Gurin, and W.E. Miller, *The voter decides*, Evanston: Row, Peterson and Company, 1954.

⁶ A. Bandura, ‘Exercise of human agency through collective agency’, *Current Directions in Psychological Science*, 9 (3) 2000, pp. 75-78.

⁷ OECD Public Management Policy Brief, ‘Engaging Citizens in policy-making: Information, Consultation, and Public Participation’, July 2001. Accessed at: <<https://www.sigmaweb.org/publicationsdocuments/35063274.pdf>>.

⁸ G. A. Mark, ‘The Vestigial Constitution: The History and Significance of the Right to Petition’, *Fordham Law Review*, 66(6) 1998, pp. 2165-2167.

⁹ G. A. Mark, ‘The Vestigial Constitution: The History and Significance of the Right to Petition’, pp. 2170-2171.

the Gove Peninsula in Arnhem Land which was under threat from mining. The petition resulted in an establishment of a parliamentary committee to investigate the issue.¹⁰

Parliamentary committees date back to the 14th century in Britain. The first parliamentary committees were made up of individuals chosen to serve as triers (or auditors) of petitions and the duty of the early committees was to draft legislation in order to fulfil petition requests agreed to by the Crown.¹¹ The role and functions of parliamentary committees slowly began to expand and by the middle of the 16th century, committees were an integral part of the work of lawmaking process within the British Parliament. The role and function of parliamentary committees began to include scrutinising legislation agreed to in principle by the House of Commons.¹² These scrutiny roles were accompanied by more relaxed rules for debate, the right to appoint sub-committees and the right to summon witnesses.¹³

The scrutiny-based parliamentary committees also featured in the early Australian Parliament, through the establishment of the Senate Standing Committee on Regulations and Ordinances in 1932. This Committee was tasked with reviewing federal legislation against a range of criteria, including rights-based criteria, and has since influenced the establishment of similar committees in State and Territories around Australia.¹⁴ These scrutiny-based committees have been particularly important

¹⁰ R. de Costa, 'Identity, Authority, and the Moral Worlds of Indigenous Petitions', *Comparative Studies in Society and History*, 48 (3), 2006, pp. 685-689.

¹¹ Gwilym Dodd, *Justice and Grace: Private Petitioning and the English Parliament in the Late Middle Ages*. Oxford: Oxford University Press, 2007, pp. 91-108.

¹² M. Bond, 'The History of Parliament and The Evolution of Parliamentary Procedure' [Verbatim transcript of two lectures delivered on 21st and 28th June 1966], House of Lords Record Office 1966 (re-typed 1999). Accessed at: <<https://www.parliament.uk/globalassets/documents/parliamentary-archives/evolution.pdf>>; New Zealand Parliament, Legislative Council and House of Representatives, 'Parliamentary Debates', vol. 47, 8th Parliament: 3rd session (1884), p.14. Accessed at: <<https://www.parliament.nz/en/pb/hansard-debates/historical-hansard/#1880>>.

¹³ M. Bosc and A. Gagnon, (eds.), 'Chapter 20 Committees: Historical Perspective: British Precedents', *House of Commons Procedure and Practice*, Parliament of Canada, 2017.

¹⁴ L. Grenfell, "An Australian Spectrum of Political Rights Scrutiny; 'Continuing to Lead by Example?'" , *Public Law Review*, 26/1 (2015), pp. 19-38.

safeguards for the protection of individual rights in the Australian context of rights protection because Australia does not have constitutional or statutory bill of rights.¹⁵

THE PURPOSE AND THE PROCESS

The Purpose of Petitions

Parliamentary petitions' primary purpose over the past years has been to allow an individual or the public to take a pro-active part in the democratic process by enabling them to bring to the direct attention of the parliament any matter that is within parliament's authority to act, and request that it take action. The most intense involvement of citizens takes place during the petition preparation and signature-collection stages. Petitioners are able to illustrate the level of support for the matter with the number of collected signatures.¹⁶ After the petition is handed over to an MP for presentation to the House, petitioners' engagement in the subsequent stages becomes limited. Consequently, parliamentary petitions take a form of advocacy democracy, as they are able to raise an issue and initiate a demand (in the form of a decorous request) to the legislator but are not part of the negotiation and decision-making processes.¹⁷

In addition to linking and engaging the public with the parliament, petitions in modern systems (paper, electronic or hybrid) play many other important and inter-connected roles: they provide an outlet to express dissatisfaction; resolve a grievance or address a situation of injustice (safety-valve); enable the raising of complex (often unapparent) issues to policy-makers from the bottom-up (fire-alarm); communicate information; inform policy development; effect policy change; support integration and legitimacy; aid the scrutiny of the Executive; mobilise citizens and through that contribute to the

¹⁵ Sarah Moulds, *Committees of Influence: Parliamentary Rights Scrutiny and Counter-Terrorism Lawmaking in Australia*. Singapore: Springer, 2020, p. 13.

¹⁶ R. Burton, 'The People's Parliament: Have Petitions Had Their Day?', *Australian Parliamentary Review*, 33(1) 2018, p.67.

¹⁷ C. Carman, 'The Process is the Reality: Perceptions of Procedural Fairness and Participatory Democracy', *Political Studies* 58 2010, pp. 731-751.

development of collective identity.¹⁸ They also play a vital role in revitalising trust and improving the relationship between citizens and the parliament – provided that the petition process is regarded as procedurally fair.¹⁹

Clark and Lomas have found by analysing recent historic e-petitions data, petitions can provide political engagement platform for a diaspora – often, like in the case of the United Kingdom – a very significant section of a country’s electorate. This is particularly important for countries that enable their expatriates to vote in elections, or plan to open up such opportunities for them, as the chances of participation in this ‘between elections’ form are likely to increase.²⁰ The extent to which the political elites are receptive to public input is another question. As Matthews has demonstrated, although this participatory mechanism is considered as valuable for the contributory and informative reasons, those in power are not very much willing to share it with those who put them in this very position.²¹

Petitions also serve as a source of social history – a very important but often overlooked purpose. This is because they can provide a first-hand account of the key concerns and demands of people living at a particular period of time, thus providing opportunities for other viewpoints to come to light and potentially confirm or challenge the existing state of knowledge.²² Nevertheless, as Leston-Bandeira has found, among the multiplicity of roles that petitions perform, it is their potential to connect citizen to parliamentarian that is generally seen as their most central value.²³ This is reflected in the NSW Parliament, where lower House procedural publications

¹⁸ C. Leston-Bandeira, ‘Parliamentary petitions and public engagement: an empirical analysis of the role of e-petitions’. *Policy & Politics* 47 (3) 2019, pp. 415-436.

¹⁹ Carman, ‘The Process is the Reality’, p.743.

²⁰ S. D. Clark, and N. Lomax, ‘A Worlds-Eye View of the United Kingdom through Parliamentary e-Petitions’, *British journal of politics & international relations*, 2022 0(0).

²¹ F. Matthews, ‘The Value of ‘between-Election’ Political Participation: Do Parliamentary e-Petitions Matter to Political Elites?’ *British journal of politics & international relations*, 23(3) 2021.

²² J. Gallagher, ‘Petitions: A Voice for Sharing our Social History’, *Australasian Parliamentary Review* 37 (2) 2022, pp. 126-142.

²³ C. Leston-Bandeira, ‘Parliamentary Petitions and Public Engagement: An Empirical Analysis of the Role of e-Petitions’.

make reference to petitions as enabling people to have their ‘grievances’ brought to the attention of the Parliament.²⁴

The Purpose of Parliamentary Inquiries

Contrary to a parliamentary petition originating from ‘outside’, it is the Parliament itself that refers a matter for inquiry to a committee. When parliamentary committees respond to references by conducting public inquiries into proposed legislation or policy issues, they create a forum for MPs to contribute to the legislative process, and provide a link between members of the public and the lawmaking process.²⁵ It is through this important inquiry function that parliamentary committees can investigate policy or legislative issues in detail, and hear from a wide range of stakeholders: experts; community members and their leaders; non-governmental organisations (NGOs); institutions; the public and others. In this way, parliamentary committees, similarly to petitions, play a crucial role in re-building citizens’ trust in democracy and its institutions – provided that engagement with the public is done effectively and ethically.²⁶

Parliamentary committees also serve an invaluable role in promoting and protecting human rights. At the federal level, for example, parliamentary committees not only investigate and report on the non-compliance of national legislation with international human rights law, but also facilitate community discussion on the issue at hand and offer recommendations on how the legislation can be improved.²⁷ Parliamentary committees also can have a ‘hidden impact’: an increase in the awareness of the lawmakers of the need to take into account rights-protective aspects; anticipation of higher standards being applied in the policy-making process in the future; or advanced criteria being incorporated into guidelines and manuals for public servants aided by,

²⁴ Parliament of New South Wales, ‘NSW Legislative Assembly Practice, Procedure and Privilege’, Chapter 13. Accessed at: <<https://www.parliament.nsw.gov.au/la/proceduralpublications/Pages/wppbook.aspx>>.

²⁵ S. Moulds, ‘Committees of Influence: Evaluating the Role and Impact of Parliamentary Committees’, Senate Occasional Lecture-Paper, Canberra, 5 May 2021, pp. 1-30.

²⁶ E. Banyer, ‘The Franking Credits Controversy: House of Representatives Committees, Public Engagement and the Role of the Parliamentary Service’, *Australasian Parliamentary Review*, 35(1) 2020, p. 78.

²⁷ S. Moulds, ‘Committees of Influence’, p.5.

for example, practical checklists for particular stages of the process to develop new laws.²⁸

It is important to note that different types of parliamentary committees have different functions, powers and membership: the main categories or ‘species’ of committees being orientated around scrutiny, investigation, legislation and public communication.²⁹ The scrutiny of the executive role is particularly significant in unicameral parliaments where committees fill the vacuum of an upper house of review.³⁰ Also, in some Westminster-style parliaments, committees are tasked with the considerations of petitions e.g. the UK House of Commons’ Petitions Committee, the Scottish Parliament’s Citizen Participation and Public Petitions Committee, the New Zealand Parliament’s Petitions Committee and the Australian House of Representatives’ Standing Committee on Petitions.

In NSW, committees play many important roles. For example, they engage the public in the formulation of public policy; raise the level of accountability by scrutinising the actions and decisions of the Executive; examine legislation and prepare report to better inform the Parliament; and provide additional forum for communication for independent statutory officers such as the Auditor-General, the Ombudsman’s Office, the Independent Commission Against Corruption.³¹ The NSW committees also aim at increasing ‘regular’ MPs level of engagement in the policymaking process hence Ministers and Parliamentary Secretaries do not usually serve on parliamentary committees and are not allowed to serve on particular statutory committees.³²

²⁸ S. Moulds, ‘Committees of Influence’, Chapter 7, pp. 211-226.

²⁹ J. Haligan, ‘Parliamentary Committee Roles in Facilitating Public Policy at the Commonwealth Level’, *Australasian Parliamentary Review*, 23(2) 2008, pp. 135–56.

³⁰ J. Alvey, ‘Parliament’s Accountability to the People, the Role of Committees: A Queensland View’, *Australasian Parliamentary Review*, 23(1) 2008, pp. 62–72.

³¹ The newDemocracy Foundation, ‘New options for Parliamentary Committees’, *Australasian Parliamentary Review*, 37(2) 2022, pp. 169–170; Parliament of New South Wales, ‘NSW Legislative Assembly Practice, Procedure and Privilege’, Chapter 26.

³² Parliament of New South Wales, ‘NSW Legislative Assembly Practice, Procedure and Privilege’, Chapter 26.

The Process

Because of their very different functions and purposes, the process for citizen engagement with petitions and parliamentary inquiries is also different and distinct. To compare the main aspects of both processes the following procedural stages have been selected for analysis: the start of the process (initiation); involvement of MPs in the process; involvement of Parliamentary Officers in the process; Government response requirements and their timeliness; and debating provisions.

INITIATION

The process of starting a petition and the campaign to collect signatures in the majority of Australian jurisdictions occurs well-before anything happens in Parliament. The exception is electronic petitions for which the sponsorship of an MP or the Clerk is sometimes required as the first step.³³ Nevertheless, regardless of the form of a petition, petitioners may request procedural assistance (compliance with standing orders check) before the collection of signatures, to ensure the wording and structure of the petition is in order, and thereby reduce the risk of a petition being ruled inadmissible at a later stage.³⁴ In the NSW Parliament under Legislative Assembly standing order 123 and Legislative Council standing orders 70-74 the Member must be familiar with the contents of a petition before presenting it to Parliament; must sign the first page and if a petition contains more than 500 signatures provide a written certification. In terms of electronic petitions, the Member, under Legislative Assembly standing order 123A and Legislative Council standing order 72, needs to agree to present the petition before it is after it is no longer open for signatures. The Member presenting the petition does not need to be involved in the collection of neither paper nor electronic signatures.³⁵

³³ See, for example, The Legislative Assembly for the Australian Capital Territory, *Standing Orders and continuing resolutions of the Assembly*, Order No 100A. Queensland Parliament, Legislative Assembly, Standing Rules and Orders of the Legislative Assembly, Order No 119.

³⁴ See, for example, Parliament of Australia, 'Contact us'. Accessed at: <https://www.aph.gov.au/Parliamentary_Business/Petitions/House_of_Representatives_Petitions/Contact>.

³⁵ Parliament of New South Wales, Legislative Assembly, *Standing Orders*; Parliament of New South Wales, Legislative Council, *Standing Rules and Orders*.

In comparison, the parliamentary committee process starts in Parliament with most committees being established under the standing orders by either House of Parliament or jointly by both. However, the way in which different types of committees are set up may differ, for instance statutory committees are established by statute (Act of Parliament)³⁶. In NSW, unless otherwise determined by statute, the rules governing the establishment and works of committees are specified by Parliament under Legislative Assembly standing orders 272-323 and Legislative Council standing orders 210-241. Appointment of committees may be on notice of motion (e.g., Legislative Assembly standing committees under SO 315), without notice (e.g., Legislative Assembly legislation committees under SO 323), or in the case of joint committees – proposed by a message (in Legislative Assembly under SO 319).³⁷

MPS INVOLVEMENT

The different purposes of petitions and committees also define the level of involvement of MPS. In the petition process it is the citizen who starts and controls the initial stage. No action is required on behalf of Parliament until the petitioner decides to start the engagement by submitting a petition – it is a one-way communication. In contrast, committee inquiries are initiated by the Parliament. Committee engagement with the public is more multilayered, still within the control of the Parliament, but with more potential to provide a deliberative forum for MPs and the community to debate an issue together (recognising that in practice, the findings and recommendations of committees are often influenced by executive dominance).³⁸

In NSW Parliament, the MPs form part of the petition process, but in practice their engagement with petitioners is often marginal. Under the NSW petition process, the MPs primary role is to familiarise themselves with the content of petitions (they do not

³⁶ Parliament of Australia, 'Infosheet 4 – Committees'. Accessed at: <http://www.aph.gov.au/about_parliament/house_of_representatives/powers_practice_and_procedure/00_-_infosheets/infosheet_4_-_committees>.

³⁷ Parliament of New South Wales, Legislative Assembly, Standing Orders; Parliament of New South Wales, Legislative Council, Standing Rules and Orders.

³⁸ For example, A. Walker, N. Jurczak, C. Bochel, C. Leston-Bandeira, 'How Public Engagement Became a Core Part of the House of Commons Select Committees', *Parliamentary Affairs*, 72 (4) 2019, pp. 965-986; C. Leston-Bandeira, L. Thompson, 'How can the public effect real change in Parliament?', blog post for *The British Academy*, 2019. C. Leston-Bandeira, 'Parliamentary petitions and public engagement: an empirical analysis of the role of e-petitions'. *Policy & Politics* 47 (3) 2019, pp. 415-436.

have to support them), make sure they comply with the standing orders, and present them to parliament. After submission of a petition there is not much involvement required unless the petition contains more than 10,000 signatures (20,000 for electronic petitions).³⁹ In this case, usually the Member presenting the petition also participates in the debate on the petition. If a Member does not seek the call when the Order of the Day is called on, it lapses.⁴⁰

The involvement of MPS in parliamentary inquiries conducted by parliamentary committees in NSW is more substantial. Once the terms of reference have been established the committee may invite written submissions from the community, experts and/or interest groups regarding the issue. After the deadline for submissions has closed, committee members consider the submissions. Selected persons or groups may be invited to appear before the committee to provide further evidence or answer questions from committee members.⁴¹ Committee hearings usually take place at Parliament House but committee members may also travel⁴² all over Australia to reach out and discuss issues with wide audiences and get well-informed.⁴³

PARLIAMENTARY OFFICERS' INVOLVEMENT

The involvement of parliamentary officers in the petition process, overall, is quite limited. For example, in NSW Legislative Assembly, the petitions officer (Parliamentary Officer Documents) advises petitioners on the requirements of petitions and reviews petitions prior to their submission, if so requested. After submission, the petitions officer checks whether the petition complies with the standing orders and refers it to the relevant Minister – under SO 125 for petitions with more than 500 signatures, the referral includes a request and timeframe for the receipt of a ministerial response.⁴⁴ After the ministerial response is received the officer publishes the response on the

³⁹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders no 123-125.

⁴⁰ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders no 119-125A.

⁴¹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders no 288-289; Parliament of New South Wales, 'NSW Legislative Assembly Practice, Procedure and Privilege', Chapter 26.

⁴² Except for Legislation committees which under Standing Order no 323 shall not travel.

⁴³ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders no 272-334.

⁴⁴ Parliament of New South Wales, Legislative Assembly, *Standing Orders*.

parliament's website. The petitions officer follows the rules set out in the standing orders and does not have any additional decision-making power in relation to the acceptance or rejection of petitions. The admissibility of borderline petitions is subject to the Clerk's decision.

The involvement of parliamentary officers in the committee inquiry process is much more significant. Committee Secretariat staff and other officers are extensively involved in all aspects of an inquiry: calling for submissions, selection of witnesses, organisation and attendance of hearings, report writing and report tabling. However, one of their most crucial and at the same time difficult roles according to Hughes⁴⁵ is advising committee members on institutional and procedural obligations they are bound by to ensure that the integrity of the committee system is maintained.

It is important to note that the role of parliamentary officers in the petition process is enhanced in parliaments that refer petitions to committees whereby they: provide procedural advice on the petition process to members of the public, receive and process petitions, organise and assist committee members during public hearings, refer the terms of the petition to the Minister responsible for the administration of the matter raised and assist committee members in drafting reports.

GOVERNMENT RESPONSE REQUIREMENTS AND THEIR TIMELINESS

The majority of Australian Houses of Parliament require government responses to petitions and committee recommendations and specify timeframes for the receipt of such responses (Table 1). Deadlines for the provision of responses, however, vary considerably between the various jurisdictions: from 12 meeting days to three months for petitions and from two to six months for committee reports. Four Australian jurisdictions do not require their governments to respond to committee reports compared to six jurisdictions not requiring government responses to petitions. However, parliaments which do not require responses to petitions (except for the Australian Senate and the SA Legislative Council) still forward petitions to Ministers for their information and action if deemed appropriate (Table 1). As a general practice,

⁴⁵ T. Hughes, 'Partisanship, leaks, and more important things to do: Political realities of parliamentary committees', ANZACATT 2012, Workshop 2B.

responses to petitions and responses to committee reports are published on parliamentary websites and printed in Hansard.

Table 1. Government response requirements under the Houses standing orders

LEGISLATURE	RESPONSES TO PETITIONS Timeframe/not required /comment	DELAY PROVI- SIONS Y/N	RESPONSES TO COMMITTEE REPORTS Timeframe/not required/ comment	DELAY PROVI- SIONS Y/N
AUSTRALIA				
ACT Legislative Assembly ⁴⁶	3 months (500+ signature petitions are also referred to committees)	N	4 months	Y
AU House of Representatives ⁴⁷	90 days (if referred to the responsible Minister by the Standing Committee on Petitions)	N	6 months	Y
AU Senate ⁴⁸	Not required (referral to the Minister is not required)	N	3 months	N
NSW Legislative Assembly ⁴⁹	35 calendar days (petitions with 500+ signatures)	N	6 months	N
NSW Legislative Council ⁵⁰	35 calendar days (petitions with 500+ signatures)	Y	3 months	Y
NT Legislative Assembly ⁵¹	12 meeting days	N	6 months	Y

⁴⁶ Legislative Assembly for the Australian Capital Territory, *Standing Orders and continuing resolutions of the Assembly*, Orders No 83-100C and 254A-254B.

⁴⁷ Parliament of Australia, House of Representatives, *Standing Orders*, Orders No 204-209 and Resolution adopted 29 September 2010, p.130.

⁴⁸ Parliament of Australia, The Senate, *Standing Orders*, Orders No 69-71 and 44.

⁴⁹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Orders No 119-125A and 303A.

⁵⁰ Parliament of New South Wales, Legislative Council, *Standing Rules and Orders*, Orders No 70-74 and 240.

⁵¹ Legislative Assembly of the Northern Territory, *Standing Orders*, Orders No 119-123 and 201.

QLD Legislative Assembly ⁵²	30 days	Y	3 months	Y
SA House of Assembly ⁵³	Not required (referred by the Clerk to the responsible Minister)	N	Not required	N
SA Legislative Council ⁵⁴	Not required (referral to the Minister not required)	N	Not required	N
TAS Legislative Assembly ⁵⁵	15 sitting days	N	Not required	N
TAS Legislative Council ⁵⁶	15 sitting days	N	Not required	N
VIC Legislative Assembly ⁵⁷	Not required (referred to the responsible Minister)	N	6 months	N
VIC Legislative Council ⁵⁸	30 days	N	6 months	Y
WA Legislative Assembly ⁵⁹	Not required (may be referred to a committee)	N	3 months	Y
WA Legislative Council ⁶⁰	Not required (referred to the Environment and Public Affairs Committee)	N	2 months	N
OVERSEAS				
New Zealand Parliament ⁶¹	60 working days (if referred to Minister by Petitions Committee; every petition is referred to the Petitions Committee)	N	60 working days	N

⁵² Queensland Parliament, Legislative Assembly, Standing Rules and Orders of the Legislative Assembly, Orders No 119-125 and 220.

⁵³ Parliament of South Australia, House of Assembly, *Standing Orders for Regulating the Public Business of the House Of Assembly together with the Joint Standing Orders of the Houses*, Orders No 82-86 and 317-397.

⁵⁴ Parliament of South Australia, Legislative Council, *The Standing Orders of the Legislative Council Relating to Public Business together with the Joint Standing Orders Agreed to by Both Houses*, Orders No 79-97 and 351-428.

⁵⁵ Parliament of Tasmania, Legislative Assembly, *Standing & Sessional Orders and Rules*, Orders No 51-67 and 279-326.

⁵⁶ Parliament of Tasmania, Legislative Council, *Standing Orders*, Orders No 42-44 and 147-240.

⁵⁷ Parliament of Victoria, Legislative Assembly, *Standing Orders*, Orders No 44-52 and 201-226B.

⁵⁸ Parliament of Victoria, Legislative Council, *Standing Orders*, Orders No 11.01-11.05 and 23.01-23.24.

⁵⁹ Parliament of Western Australia, Legislative Assembly, *Standing Orders*, Orders No 64-67 and 248-281.

⁶⁰ Parliament of Western Australia, Legislative Council, *Standing Orders*, Orders No 101-103 and 156-191.

⁶¹ New Zealand Parliament, *Standing Orders of the House of Representatives*, Orders No 185-256 and 369-380.

Scottish Parliament ⁶²	Response requirement depend on the committee determination	N	Not required	N
UK House of Commons ⁶³	Not required (referred to the responsible Minister)	N	Not required	N

It is important to point out that some of the legislatures which do not require government responses under the standing orders do require them under the sessional orders or other regulations. For example, the Tasmanian Legislative Council under its sessional orders requires the government to respond to a sessional committee report within 3 months.⁶⁴ The Scottish Parliament sets out government response recommendations under its ‘Protocol on the handling of committee business’: 2 months for committee reports and 6 weeks for petitions.⁶⁵

Interestingly, not all jurisdictions determine actions to be taken when government responses are not received within deadlines. The jurisdictions that address lateness of government responses to petitions are QLD Legislative Assembly and NSW Legislative Council. Jurisdictions that determine actions to be taken with regard to late government responses to committee reports include: the Australian House of Representatives, the NT Legislative Assembly, the ACT Legislative Assembly, the NSW Legislative Council, the QLD Legislative Assembly, VIC Legislative Council and WA Legislative Assembly (Table 1).

Debates

On the whole, legislatures do not allow for chamber debates on petitions unless a member moves a motion;⁶⁶ or a petition concerns some present personal grievance for which there may be an urgent necessity for providing an immediate remedy.⁶⁷

⁶² The Scottish Parliament, *Standing Orders*, Rules No 12.1-12.10 and 15.4-15.8.

⁶³ UK Parliament, House of Commons, *Standing Orders (Public Business)*, Orders no 84-157.

⁶⁴ Parliament of Tasmania, Legislative Council, *Sessional Orders Third Session of the Fiftieth Parliament*.

⁶⁵ The Scottish Parliament, *Protocol on the handling of committee business*.

⁶⁶ See, for example, Parliament of Western Australia, Legislative Assembly, *Standing Orders*, Order No 66.

⁶⁷ See, for example, Parliament of South Australia, Legislative Council, *Standing Orders*. Order No 93.

However, some jurisdiction parliaments do have provisions for petitions to be debated. Under House of Representatives standing order 208⁶⁸, discussion on the subject matter of a petition can be allowed but only at the time of presentation. In the NSW Legislative Assembly, under standing order 125A⁶⁹, every in-order petition signed by 10,000 or more persons (20,000 or more persons for electronic petitions), is automatically set down as an Order of the Day for a 30-minute discussion in the House. The Order of the Day takes place at 4.00 p.m. on the Thursday of the next sitting week. Under the ACT Legislative Assembly standing order 98A⁷⁰, following the Clerk's announcement of petitions and petition responses, 30 minutes is allocated for a debate with each member speaking for not more than 5 minutes. In the Victorian Legislative Council, under standing order 11.03⁷¹, a Member presenting a paper petition that has received 2,000 or more signatures, or e-petition/hybrid petition that has received 10,000 or more, may give notice of their intention to move 'That the petition be taken into consideration' – the order of the day takes place on the Wednesday of the next sitting week.

This is in stark contrast to the situation of parliamentary committees, where reports of committees are regularly debated in parliamentary chambers, as are the terms of reference and formation of some parliamentary committee themselves. For example, the majority of Houses of Parliament provide for the consideration of committee reports by the House in their standing orders. In some parliaments however, this does not occur 'automatically'. In the Australian Senate 'any proceeding on a report of a committee shall be by motion after notice'⁷² and in the SA House of Assembly to permit debate on the report a motion is moved 'That the report be noted'.⁷³

⁶⁸ House of Representatives, *Standing Orders*, Order No 208.

⁶⁹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*, Order No 125A.

⁷⁰ The Legislative Assembly for the Australian Capital Territory, *Standing Orders and continuing resolutions of the Assembly*, Order No 98A.

⁷¹ Parliament of Victoria, Legislative Council, *Standing Orders*, Order No 11.03.

⁷² Parliament of Australia, The Senate, *Standing Orders*, Order No 39.

⁷³ Parliament of South Australia, House of Assembly, *Standing Orders*, Order No 346.

COMPARATIVE ASSESSMENT OF GOVERNMENT RESPONSES TO PETITIONS VERSUS COMMITTEE REPORTS IN 55TH NSW PARLIAMENT

In the 55th NSW Parliament, under the lower house standing order 125⁷⁴ (unchanged), the government was required to provide a response to all petitions signed by more than 500 persons within 35 calendar days from a petition being tabled.⁷⁵ Under the standing order 303A⁷⁶ (unchanged) the government was required to respond to a committee report within six months from its tabling in the House.

Government responsiveness

In the 55th NSW Parliament (from 30 April 2011 to 6 March 2015) 312 petitions and 104 committee reports requiring government responses were tabled. All 312 petitions were responded to by the government. Also, all petitions directed to Ministers but later identified as falling under different Minister's portfolio responsibilities, were efficiently re-directed and subsequently responded to by the responsible Minister. In comparison, out of 104 committee reports, 93 received government responses and 11 were not responded to (Table 2).

⁷⁴ Parliament of New South Wales, Legislative Assembly, *Standing Orders*.

⁷⁵ Ministerial responses to petitions were not required under the upper house standing orders.

⁷⁶ Parliament of New South Wales, Legislative Assembly, *Standing Orders*.

Table 2. Petitions and committee reports requiring government responses⁷⁷

Petitions			%
Total tabled		312	
	Government responses received	312	100%
	Government responses not received	0	0%
Committee reports			%
Total tabled		104	
	Government responses received	93	89%
	Government responses not received	11	11%

As the above data indicates, responsiveness of government to petitions had a higher rate than government responses to committee reports. However, it is important to highlight that 19 petitions (500+ signatures each) lodged by Mr Rob Stokes MP on the same subject of ‘opposing the continuation of commercial fishing and requesting a Government buyout of commercial fishing operators within the Pittwater’ were tabled and received exactly the same response each time (a few minor details were amended reflecting the passage of time).

Timeliness of government responses

With regard to the timeliness of government responses, 62.5% of responses to petitions (65 out of 104) were received on time compared to 43% of responses to committee reports (45 out of 104). The lateness of government responses to both petitions and committee reports ranged from a few days to about a month with a few exceptions. For example, a government response to the ‘Review of the 2012-2013 Annual Report of the Health Care Complaints Commission’ report was due on 18 December 2014 and was received on 21 April 2015 – 4 months and 3 days (124 days) late. One of the longest waiting times concerned a petition lodged by Mr Andrew Gee

⁷⁷ Committee reports not responded to concerned: Review of the Parliamentary Electorates and Elections Act 1912 and the Election Funding, Expenditure and Disclosures Act 1981; Outsourcing Community Service Delivery; Racial vilification law in New South Wales; Sale of the Currawong property at Pittwater; 2014 General Meetings (Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission); Social, public and affordable housing; Review of the 2012-2013 Annual Reports of the Independent Commission Against Corruption and the Inspector of the Independent Commission Against Corruption; Tenancy management in social housing; Wambelong fire; Ministerial propriety in New South Wales; The conduct and progress of the Ombudsman’s Inquiry ‘Operation Prospect’.

MP on 9 September 2011 ‘requesting 24-hour road and helicopter medical retrieval services for the Central West regions’. The government’s response was due on 14 October and was received on 2 February 2012 – 3 months and 19 days (111 days) late. Overall, however, government responses to petitions occurred within shorter time frames than government responses to committee reports.

Table 3. Timeliness of government responses

Petitions	Total analysed	104	%
	Response received on time	65	62.5%
	Response received late	39	37.5%
Committee Reports	Total analysed	104	%
	Response received on time	45	43%
	Response received late (includes no response received)	59	57%

In the 55th NSW Parliament there were no formal procedures for addressing neither late petition responses nor late committee report responses⁷⁸. An incentive for Ministers to provide responses on time was the fact that ‘unresponded’ petitions and committee reports continued to be listed on the NSW Parliament’s website and in the Business Paper until responses were received. In addition, any Member of Parliament may have raised lateness of response as a point of privilege (contempt of the House, in that the Minister is not adhering to the rules formulated by the House), however this measure was not resorted to.

Content of government responses

In terms of the content of government responses (Table 4 and Figure 1), the rate of consent to petitioners’ requests versus committee recommendations is profound. 20% of committee recommendations (21 out of 104) have been supported in their entirety compared to 16% of petitions (17 out of 104); however no government responses

⁷⁸ The NSW Legislative Council has since introduced provisions, under the Standing Order 74 (5), addressing lateness of responses to petitions, Parliament of New South Wales, Legislative Council, *Standing Rules and Orders*. Accessed at:

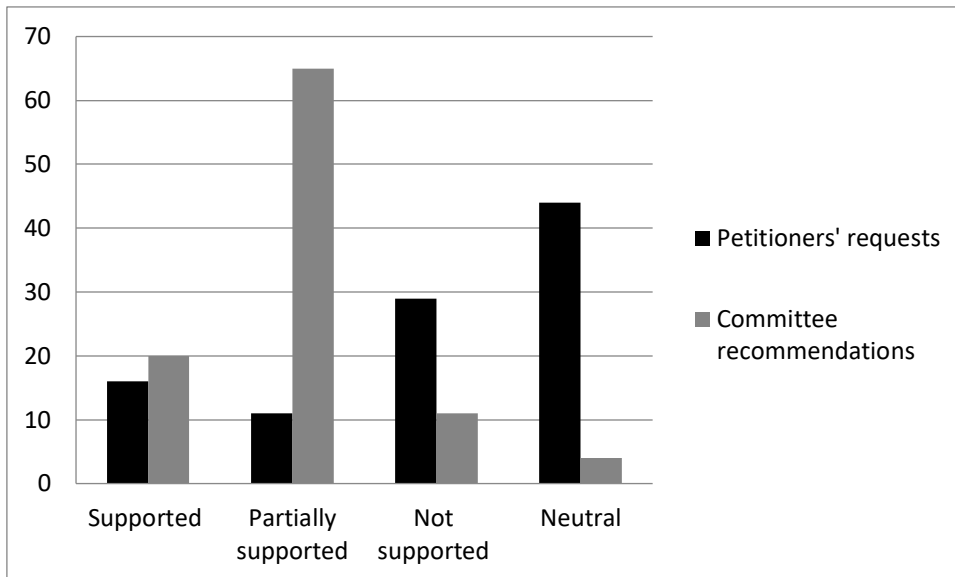
<<https://www.parliament.nsw.gov.au/lc/rules/Documents/Legislative%20Council%20Standing%20rules%20and%20Orders%20-%202023.pdf>>.

rejected committee recommendations completely, compared to 29% of petitions (30 out of 104) not being supported in their entirety. Furthermore, 65% of committee recommendations (68 out of 104) have been partially supported compared to only 11% of petitions (11 out of 104). Finally, only 4% of committee recommendations (4 out of 104) received neutral responses compared to 44% of petitions (46 out of 104). This data suggests that the government has been more inclined to support or adopt recommendations from committees than to agree to requests from petitioners.

Table 4. Content of government responses

Petitioners' requests	Total analysed	104	%
	Supported – request supported	17	16%
	Partially supported – request partially supported	11	11%
	Not supported – request not supported	30	29%
	Neutral – inconclusive, under consideration, to be considered, review requested, additional information required, not under State Minister's jurisdiction etc.	46	44%
Committee recommendations	Total analysed	104	%
	Supported – all recommendations supported	21	20%
	Partially supported – some recommendations supported	68	65%
	Not supported –		11%
	– no recommendations supported	0	
	– no response received	11	
	Neutral – inconclusive, not specific, explanatory/acknowledgement received but no formal response etc.	4	4%

Figure 1. Nature of government responses



The majority of government responses to petitions were neutral in terms of the extent to which they demonstrated a clear commitment to adopt a particular position or course of action. They were carefully worded in a way that did not clearly state the government would not support the petitioners' request but were not supporting them either, for example:

- matter is under consideration or review has been requested or will be considered.
- matter is not within the Minister's power or Minister does not have a role in the determination.
- matter falls under local Council jurisdiction or another public body's responsibility e.g. Director of Public Prosecution.
- independent assessment of the issues is being conducted by e.g., the Planning Assessment Commission, or
- matter is subject to Commonwealth review.

In comparison, committee reports dealt with more complex matters, and consequently, responses to committee recommendations were more detailed and engaged more directly with the policy or legislative issues considered by the parliamentary committees during their public inquiry processes. However, although

under the standing order 303A⁷⁹ (unchanged) relevant Minister(s) must have reported to the House what action, if any, the government had proposed to take in relation to each recommendation of the committee, the form of government responses was not consistent. Variations were evident across the following attributes, for example some responses were report style, with responses to individual recommendations or groups of recommendations clearly stating the government's stance; or indirectly explaining the government's stance by providing explanations or outlining current policies. Other response took the form of ministerial letters addressing each recommendation, or generally addressing the report; and in some instances, draft bills were prepared.

CONCLUSION

Parliamentary petitions and parliamentary committees have comparably long and respected traditions and both constitute key parliamentary tools. Although set apart by their fundamental purpose and processes, they share an objective of addressing matters of public concern and providing a pathway for lawmakers to connect with or understand the thoughts and views of the citizens they represent. Unfortunately, neither parliamentary committees nor petitions have been fully successful in achieving this goal. As the case study of government responses to petitions and committee reports in the 55th NSW Parliament showed, petitions had a higher rate of government responsiveness and timeliness than committee reports; however, in terms of the content of government responses, the proportion of government acceptance of committee recommendations was much higher than of petitioners' requests. The question arises about what could be done to increase the level of responsiveness of those in power to citizens requests forwarded in the form of petitions. Returning to Handley's⁸⁰ suggestion that instead of petitioning parliament, citizens should instead consider making a representation to a particular committee or directly to a relevant department, this position underestimates the potential impact and influence of the petition process – and its role in creating the right political conditions for further parliamentary engagement (including through parliamentary committees) to occur. Unlike parliamentary committees, which are necessarily controlled by the Houses of

⁷⁹ Parliament of New South Wales, Legislative Assembly, *Standing Orders*.

⁸⁰ Handley, 'Petitioning Parliament', p. 302.

Parliament from which they originate, petitions can be freely initiated from outside parliament and legislators have no control over what issues are raised in petitions. In this regard, petitions can more directly reflect and communicate citizens' concerns: they do not require any 'political filtering' or priority-balancing to occur before being lodged with the parliament. However, precisely because of this feature, petitions can also lack the political support needed to translate into a substantive, practical response from government.

A potential middle road could be to adopt a process whereby petitions attracting many signatories are forwarded to parliament, but a response is required from both the relevant Minister and the relevant Department. Additionally, petitions with substantial number of signatures could automatically be referred to a relevant committee, which would be tasked with inquiring into the issues raised in the petition and producing a report for government to consider. In this way, Parliament would maintain its role of representing and guarding the interests of a diverse range of constituents, whilst at the same time encouraging the generation of practical outcomes from within government itself. This type of reform could help ensure that parliamentary petitions retain their historical status as important democratic tools for future generations.

Understated and Uninspired: the 2023 NSW Election*

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Abstract: This article assesses the March 2023 New South Wales (NSW) election against the background of recent systematic studies showing that Australian state elections do not simply reflect national trends and that the performance of state governments is important for state election results. It outlines the positions of the NSW Government and Opposition in the period before the campaign, arguing that the Coalition Government's mix of policy achievements and controversies, along with Labor's 'small target' strategy, led to a campaign best described as 'understated and uninspired'. Labor's inability to win a majority derived partly from its failure to convince voters of any urgent need to change government. Electoral geography was also important. Like other states, NSW has a regional electoral pattern. Key regions that once favoured Labor are now more competitive or beyond Labor's grasp. The 'Teal revolution' in Liberal seats seen at the 2022 federal election failed to repeat itself at state level, partly because of the optional preferential voting system used in NSW elections. Finally, the election outcome continued the transformation of the NSW parliamentary system into one that includes significant roles for Independents and minor parties. Despite the new Labor Government being in a minority in both houses, there was no anticipation that the next four years of NSW government would prove impossible or chaotic.

INTRODUCTION

Despite the importance of state politics and government to the lives of Australians, state elections receive far less academic attention than national elections. Recent systematic studies demonstrate that Australian state elections do not simply reflect national trends and that the performance of state governments is important for the results of state elections.¹ In this article we assess the March 2023 New South Wales (NSW) election against this background. We outline the positions of the Government and Opposition in the period before the campaign, arguing that the Coalition Government's mix of policy achievements and controversies, along with Labor's 'small target' strategy, led to a campaign best described as 'understated and uninspired'.² Labor's inability to win a majority derived partly from its failure to convince voters of any urgent need to change government. The shifting electoral geography of NSW also made a Labor victory in 2023 harder than its previous victories from Opposition in 1995 and 1976. Like other states, NSW has a regional electoral pattern, and key regions that once favoured Labor are now more competitive or beyond Labor's grasp.³ The 2023 election also presented a new challenge for the Coalition. Would the 'Teal Independent revolution' witnessed in Liberal electorates at the 2022 federal election be repeated at state level?⁴ This article provides evidence that the optional preferential voting system used in NSW state elections dampened the Teal challenge.

¹ Dain Bolwell and Richard Eccleston, 'Ebb Tide in Blue: Recent Sub-National Elections in the Australian Federation'. *Regional and Federal Studies*, 28(3), 2018, pp. 253-274; Rodney Smith, Luke Mansillo and AJ Brown, 'Australian State and Territory Elections: Regional Incumbents Matter'. *Regional and Federal Studies*, 33(4), 2023, pp. 421-439.

² On recent Labor 'small target' campaigning, see 'Albanese's Small-Target Strategy May Give Labor a Remarkable Victory—Or Yet More Heartbreak', *The Conversation*, 2 September 2021. Accessed at: <<https://theconversation.com/albaneses-small-target-strategy-may-give-labor-a-remarkable-victory-or-yet-more-heartbreak-166752>>.

³ On NSW, see Michael Hogan and David Clune (eds), *The People's Choice: Electoral Politics in 20th Century New South Wales*, Volume 3: 1968 to 1999, Sydney, Parliament of New South Wales and University of Sydney, 2001; E. Clifford, A. Green and D. Clune, (eds.), *The Electoral Atlas of New South Wales 1856–2006*, Bathurst, New South Wales Department of Lands, 2006; Jim Hagan (ed.), *People and Politics in Regional New South Wales: Volume 1: 1856 to the 1950s; Volume 2: The 1950s to 2006*. Sydney: The Federation Press, 2006. On other states, see, for example, Paul D. Williams, 'Revisiting Six Queenslanders: Disaggregating the Regional Vote at the 2020 Queensland State Election'. *Australasian Parliamentary Review*, 38(1) 2023, pp. 108-127.

⁴ See Margot Saville, *The Teal Revolution: Inside the Movement Changing Australian Politics*. Melbourne: Hardie Grant, 2022.

Finally, we note that the election continued the evolution of the NSW parliamentary system over recent decades into one that includes significant roles for Independents and minor parties.⁵ Despite the new Labor government being in a minority in both houses, there was no anticipation that the next four years of NSW government would prove impossible or chaotic.

THE LEADERS

The campaign for the 25 March 2023 election, as in 2015 and 2019, saw a new Premier and Opposition Leader facing off against each other.

Dominic Perrottet became Premier on 5 October 2021 after the unexpected resignation of Gladys Berejiklian, triggered by an Independent Commission into Corruption inquiry into her relationship with disgraced former MP Daryl Maguire. A former corporate lawyer who had been involved in the Liberal Party since his student days, he was elected an MP in 2011 and moved rapidly through the ranks. At 39, Perrottet was the youngest Premier of New South Wales. One of 12 children, he was the father of seven. A conservative Catholic with a less than charismatic public image, Perrottet seemed an unlikely successor to the popular Berejiklian.⁶ However, he was a pragmatic politician who realised that rigid ideology did not make for good politics. Against the odds, Perrottet established himself as a competent and trustworthy, if 'dorky', Premier.

Chris Minns was elected Opposition Leader unopposed on 4 June 2021, after Jodi McKay was forced to resign following Labor's poor result in the Upper Hunter by-election.⁷ In his early 40s with three young children, Minns became an MP in 2015 and

⁵ David Clune and Gareth Griffith, *Decision and Deliberation: The Parliament of New South Wales 1856-2003*, Leichhardt, The Federation Press, 2006; Rodney Smith, *Against the Machines: Minor Parties and Independents in New South Wales, 1910-2006*, Leichhardt, The Federation Press, 2006; Rodney Smith, 'Parliament', in David Clune and Rodney Smith (eds.), *From Carr to Keneally: Labor in Office in NSW 1995-2011*, Sydney, Allen and Unwin, 2012, pp. 55-71.

⁶ Deborah Snow and Matt Wade, 'Dominic Perrottet, the archetypal man in a hurry', *Sydney Morning Herald*, 9 October 2021.

⁷ Alexandra Smith, Lucy Cormack and Tom Rabe, 'NSW Labor set for bitter leadership battle after Jodi McKay resigns', *Sydney Morning Herald*, 28 May 2021; Lucy Cormack, 'The 2023 campaign begins today: Minns's plan to rally the troops as NSW Labor leader', *Sydney Morning Herald*, 4 June 2021; Deborah Snow, 'Labor's Chris Minns: I still think it's a big uphill battle for us', *Sydney Morning Herald*, 7 October 2021.

a member of the shadow cabinet the following year. A Catholic and member of the right faction, he had previously been NSW ALP Assistant Secretary and an adviser to senior Labor ministers. Minns was soon touted as a potential leader – speculation he did nothing to discourage. He contested the Labor leadership unsuccessfully against Luke Foley in 2018 and McKay in 2019. Minns projected the image of the nice guy next door who always stops and has a chat and would lend you his lawn mower if yours had broken down. He was plausible and presentable – but some within and without the ALP asked is that enough? He has been dogged throughout his career by claims that he was a ‘show pony’ who displayed more ambition than application to the job.

THE LEAD UP TO THE CAMPAIGN

Perrottet was already facing an uphill battle to convince the voters that the 12-year-old Coalition Government deserved another term in office. Few Premiers can, in fact, have had a worse lead up to an election. At by-elections in February 2022, the Government lost Bega with a swing to Labor of 13 per cent. The Liberal Party narrowly retained Berejiklian’s seat of Willoughby with a swing to Independent Larissa Penn of 18 per cent.⁸ Long-running industrial action by rail workers seriously inconvenienced commuters. The Government, particularly Transport Minister David Elliott, was criticised for ham-fisted handling of the dispute.⁹ Perrottet was blamed for an ineffective response to catastrophic floods in regional NSW in the first half of 2022. He conceded that the response had been inadequate and accepted full responsibility.¹⁰

In early 2022, Liberal MP for Kiama, Gareth Ward, was charged with serious sexual offences.¹¹ In July, an Independent Commission Against Corruption investigation found

⁸ Michael McGowan, ‘Bega loss and big byelection swings are a clear warning to vulnerable NSW government’, *Guardian*, 13 February 2022.

⁹ Alexandra Smith, ‘What a train wreck: commuters’ pain felt in higher places’, *Sydney Morning Herald*, 31 August 2022.

¹⁰ Alexandra Smith and Catherine Naylor, ‘NSW flood response to include buybacks, land swaps for northern rivers homes’, *Sydney Morning Herald*, 6 August 2022.

¹¹ Michael McGowan, ‘Former NSW minister Gareth Ward to contest election with sexual abuse charges still outstanding’, *Guardian*, 13 February 2023.

Liberal MP for Drummoyne, John Sidoti, had acted corruptly.¹² Both were forced on to the crossbench and Ward was subsequently suspended from parliament. This, combined with the loss of Bega, put the Government into a minority position in the lower house with 45 of the 93 seats. On 5 August, Perrottet was forced to sack Liberal Minister, Eleni Petinos, over allegations she had bullied her staff.¹³

The ill-advised and short-lived attempt to appoint former Nationals Leader John Barilaro to a highly paid trade commissioner position in New York was a continuing disaster as serious failures in the process were revealed.¹⁴ Deputy Liberal Leader, Stuart Ayres, was forced to resign as a result of his inappropriate interference in the appointment. He was succeeded by Treasurer Matt Kean on 9 August 2022.¹⁵ Transport Minister David Elliott's relations with Kean were antagonistic and both indulged in public criticism of the other to the detriment of the Government as a whole.¹⁶ In early January 2023, enemies in the Premier's right faction leaked the fact that Perrottet had worn a Nazi uniform at his 21st birthday party.¹⁷ Soon after, a Liberal MLC was disendorsed over his circulation of revealing photos of a female colleague.¹⁸

¹² NSW ICAC, 'ICAC finds member for Drummoyne John Sidoti MP corrupt', Media Release, 20 July 2020, Sydney. Access at: <<https://www.icac.nsw.gov.au/media-centre/media-releases/2022-media-releases/icac-finds-member-for-drummoyne-john-sidoti-mp-corrupt>>.

¹³ Natassia Chrysanthos, 'Fair Trading Minister Eleni Petinos sacked following bullying allegations', *Sydney Morning Herald*, 31 July 2022.

¹⁴ NSW Legislative Council, Public Accountability Committee, *Appointment of Mr John Barilaro as Senior Trade and Investment Commissioner to the Americas*, Final Report, February 2023, Accessed at: <<https://www.parliament.nsw.gov.au/lcdocs/inquiries/2891/Report%20no.%2014%20-%20Special%20Report%20to%20the%20House.pdf>>.

¹⁵ Heath Parkes-Hupton and Jamie McKinnell, 'Treasurer Matt Kean elected unopposed as NSW deputy Liberal leader', *ABC News Online*, 9 August 2022. Accessed at: <<https://www.abc.net.au/news/2022-08-09/matt-kean-elected-nsw-deputy-liberal-leader/101314042>>.

¹⁶ Tom Rabe, 'Send a boy in to do a man's job: Elliott launches fresh attack on Kean', *Sydney Morning Herald*, 14 August 2022.

¹⁷ Michael McGowan and Tamsin Rose, 'Ashamed: NSW premier Dominic Perrottet reveals he wore a Nazi uniform at his 21st birthday', *Guardian*, 12 January 2023.

¹⁸ Michael Koziol, 'Liberal upper house MP suspended, disendorsed over explicit photo scandal', *Sydney Morning Herald*, 18 February 2023.

Minister for Finance Damien Tudehope resigned over his failure to disclose shareholdings.¹⁹

Bitter factional divisions in the Liberal Party caused damaging in-fighting and delays in pre-selections. A month before polling day, the Party did not have candidates selected in almost 20 seats.²⁰ Perrottet strongly pushed for the endorsement of more women candidates, but with limited success. Legislative Councillor Natasha Maclaren-Jones withdrew her nomination for Pittwater on the northern beaches when it became apparent she did not have the numbers.²¹ Despite being supported by Perrottet, MLC and Metropolitan Roads Minister Natalie Ward was unsuccessful in her attempt to win preselection for the safe Liberal seat of Davidson.²² In the Liberal Party's heartland on Sydney's north shore, the party had only one female lower house candidate.

Perrottet tried to refute allegations about the Liberal Party's lack of women candidates by replacing three incumbent male upper house members with women. This much touted arrangement almost fell apart when the Liberal factions, who had not been consulted by their leaders, revolted. A face-saving deal was patched together at the last minute, involving the replacement of one of the proposed female candidates by another woman.²³

On the other hand, the Government did have some creditable achievements, such as its solid environmental record. As Energy and Environment Minister since April 2019, Matt Kean showed that a Coalition Government could be a pacesetter in climate change policy. In November 2020, for example, the *Electricity Infrastructure Investment Act* was passed to provide the legislative framework to transition the State from

¹⁹ Tamsin Rose, 'NSW finance minister Damien Tudehope quits cabinet over shares in toll giant Transurban', *Guardian*, 17 February 2023.

²⁰ Alexandra Smith and Tom Rabe, 'NSW Liberals race to find candidates for almost 20 seats', *Sydney Morning Herald*, 25 February 2023.

²¹ Alexandra Smith, 'Libs fail to fix women problem, and they'll pay on the north shore', *Sydney Morning Herald*, 27 October 2022.

²² Alexandra Smith, 'Roads Minister Natalie Ward fails in push to move to NSW lower house', *Sydney Morning Herald*, 28 November 2022.

²³ Remy Varga, 'NSW Liberals set to replace to replace male MPs with women candidates ahead of election', *Australian*, 27 December 2022.

dependence on coal to use of renewable energy.²⁴ A significant, signature Perrottet reform was of stamp duty. On 16 January 2023, he announced that ‘eligible first home buyers will be able to ditch upfront stamp duty from today in favour of a smaller annual fee on properties purchased up to \$1.5 million’.²⁵

Despite the fact that he had spent most of his Premiership in damage control, Perrottet personally remained surprisingly competitive. According to the *Sydney Morning Herald’s* Resolve Political Monitor, in February 2023 he was preferred as Premier by 38 per cent compared to 34 per cent for Minns. The Government was, however, behind in the primary vote, 32 per cent to 38 per cent.²⁶ The *Australian’s* Newspoll survey in February had Perrottet ahead as preferred Premier 43 per cent to 33 percent for Minns. The Government’s primary vote was 37 per cent to the ALP’s 36 per cent.²⁷

The Legislative Assembly expired on 3 March 2023, writs for the election were issued three days later, and polling day was 25 March. At the time of dissolution, there were 45 Coalition MPs (33 Liberal, 12 Nationals), 36 ALP, three Greens, one from One Nation, and 8 independents. Labor needed a two-party preferred swing of 6.2 per cent to win the 47 seats needed for victory. In the Legislative Council, half of the 42 MLCs were up for re-election. The make-up of the house after the 2019 election was: Coalition 17, ALP 14, Greens 3, Shooters 2, One Nation 2, Animal Justice 2, Christian Democrats 1, independent 1.

²⁴ NSW, *Parliamentary Debates*, 19 November 2020, Legislative Council, pp 4520-4553; 20 November 2020, pp 4558-4568, 4586-4646.

²⁵ Dominic Perrottet Premier of NSW and Matt Kean Treasurer Minister for Energy, ‘First Home Buyer Choice and Stamp Duty Refunds Begin Today’, Media Release, 16 January 2023. Accessed: <<https://www.treasury.nsw.gov.au/sites/default/files/2023-01/Dominic-Perrottet-Matt-Kean-med-rel-First-Home-Buyer-Choice-and-stamp-duty-refunds-begin-today.pdf>>.

²⁶ *Resolve Political Monitor*, conducted by *Resolve Strategic* on behalf of *The Sydney Morning Herald* and *The Age*. Accessed at: <<https://www.smh.com.au/national/resolve-political-monitor-20210322-p57cvx.html>>.

²⁷ NewsPoll, conducted on behalf of *The Australian*. Accessed at: <<https://www.theaustralian.com.au/nation/newspoll>>.

MINNS' MANIFESTO

The term 'small target strategy' has become a cliché but Minns provided a definition of it. From his appointment as Opposition Leader, he consistently pursued a policy of low-key, unimaginative, amiable politics, criticising when necessary but supportive of the Government when he felt it was justified. Inspiration was not his strength – there was no Whitlamite program of transformative policies. Labor undeviatingly stuck to 'a deliberately narrow platform focused on cost-of-living relief and services'. Minns argued that after a tumultuous few years the electorate was not interested in 'big picture' politics: 'We're going to run a commonsense operation ... It's not a big experiment'.²⁸ Labor's campaign slogan, 'A fresh start for NSW', was hardly a rallying cry or very original. In 1976, Neville Wran's slogan was 'Let's put this State in better shape'; Barry O'Farrell's in 2011 was 'Make NSW number one again'. Throughout the campaign, Minns was forceful but not aggressive. He generally declined to 'go negative' in spite of the cornucopia of ammunition the Government had presented him with.

In his Fresh Start plan, Minns said that since he became Opposition Leader, he had travelled around NSW 'listening to you'. Everywhere he went, he was told

*things could be better: more teachers for our schools; more healthcare workers and beds for hospitals; transport to make life easier, not harder and more expensive; housing that is affordable and supported by good services and infrastructure; and an environment that we can enjoy now and in the future. The community knows what is needed and, after 12 long years, you just need a government that listens and delivers a fresh start.*²⁹

The main elements of the Fresh Start manifesto were:³⁰

²⁸ Michael McGowan, 'No second prize: Chris Minns and his pursuit of the NSW political throne', *Guardian*, 29 January 2023.

²⁹ Chris Minns and Labor, 'Fresh Start Plan: a summary of key policies', NSW ALP, 2023 [held in NSW Parliamentary Library].

³⁰ Chris Minns and Labor, 'Fresh Start Plan: a summary of key policies', NSW ALP, 2023 [held in NSW Parliamentary Library]; Paige Cockburn, 'What the major parties have promised during the 2023 NSW election campaign' ABC

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- restoring integrity in government by over-hauling the processes of making grants to prevent political interference
 - boosting the availability of preschool places and providing stronger connections between early learning and primary education
 - reducing teacher workloads, making salaries more competitive, and converting 10,000 temporary teaching roles into permanent ones
 - mandating minimum safe staffing levels for public hospitals and recruiting 1,200 extra nurses and midwives and 500 paramedics
 - giving 2,000 health care students a \$12,000 subsidy to assist with the cost of their studies
 - abolishing Perrottet's stamp duty reform scheme and instead eliminating stamp duty for first home buyers purchasing a home worth up to \$800,000 while offering a concessional rate to first-home buyers purchasing a property up to \$1,000,000
 - strengthening tenants' rights and appointing a Rental Commissioner to be an advocate for renters
 - halting the privatisation of state assets and changing the Constitution to prevent future privatisation of essential services such as Sydney Water
 - abolishing the 'unfair and ineffective' cap on public sector wages
 - providing relief to users of privatised toll roads
 - creating a publicly owned Energy Security Corporation to accelerate investment in renewables.

To fund his program, Minns promised to abandon the \$10 billion northern beaches toll road (which would benefit only Liberal electorates) and the controversial \$3 billion

raising of the wall of Warragamba Dam. Other cost-savings related to reducing the number and remuneration of senior executives in the public service.³¹

Labor concentrated particularly on Sydney's western suburbs, where it hoped to win seats held by the Liberals, the last vestige of O'Farrell's huge 2011 victory. In a fast-growing area home to many public sector workers, infrastructure and services were stretched thin and families were struggling. Many of Minns' key promises were aimed at this constituency. He also pushed the line that the Coalition Government had discriminated against Sydney's west, describing the Government's housing development targets for the western suburbs as 'monstrously unfair'.³²

PERROTTET'S PITCH

Perrottet's campaign persona was built around his best-known characteristic, familial fecundity. Liberal propaganda prominently featured Dom the family man photographed with some or all of his (admittedly cute) bunch of seven kids. At his campaign launch, 36 young children were on the stage! The Premier's plan to 'take the pressure off families' featured heavily in Liberal advertising.

The *Sydney Morning Herald's* Alexandra Smith observed of the many crises Perrottet had weathered: 'Rather than end him, they have humanised him'.³³ He may even have won some grudging respect for staying 'cool under fire'. The great irony was that many expected Perrottet to be an unpopular Premier who would drag the Government down. In fact, the behaviour of members of his Government dragged him down.

It became the battle of the plans, as the Premier unveiled a rival plan 'to keep NSW moving forward'. His message was: 'We can't take NSW's economic resilience for granted ... Strong economic management and a long-term plan to grow our economy

³¹ 'Chris Minns speech at Parramatta campaign rally', *Sydney Times*, 19 March 2023, Accessed at: <<https://www.sydneytimes.net.au/chris-minns-speech-nsw-labor-campaign-rally-parramatta-Sunday-19-march-2023/>>.

³² Tom Rabe and Angus Thomson, 'Perrottet tells election debate Berejiklian wasn't unfairly treated by ICAC', *Sydney Morning Herald*, 15 March 2023.

³³ Alexandra Smith, 'Can this 'Teflon premier' reclaim power, or has too much stuck to his team?', *Sydney Morning Herald*, 2 February 2023.

are essential to everything a government can do for its people'.³⁴ The State would stall under Labor. Emphasising the Coalition Government's generally sound economic record, the Premier's oft-repeated line was that past performance 'is the best indication of future performance'.³⁵

Specific elements of the Perrottet program were:³⁶

- recruiting 10,000 new nurses, midwives and doctors
- hiring 2,500 more teachers
- providing a year of free preschool education for every four-year-old and building 500 new preschools
- establishing a Kids Future Fund with a \$400 government contribution invested in an account for every child in NSW which they could access with interest when they turned 18
- funding 120,000 free training places to combat the skills shortage
- widening the stamp duty exemption scheme for home buyers
- appointing a Supply Chain Commissioner to lower prices by addressing supply chain issues
- offering a \$250 energy rebate for households who use a government website to compare energy plans and providers
- matching Labor's promise to reduce the number and remuneration of senior executives in the public service.

In terms of policy, Perrottet was the more daring, for example, with his reform of stamp duty. He had to show that his ageing Government still had vigour and vision. The

³⁴ Liberal Party of Australia, NSW Division, 'Our plan to keep NSW moving forward', 2023.

³⁵ Alexandra Smith, 'Dom-the-builder's pitch falls flat with unsatisfied voters', *Sydney Morning Herald*, 2 March 2023.

³⁶ See Paige Cockburn, 'What the major parties have promised during the 2023 NSW election campaign' *ABC News Online*, 9 March 2023. Accessed at: <<https://www.abc.net.au/news/2023-03-09/nsw-election-2023-promises-liberal-labor/102067290>>; NSW Liberal Party, 'First 100 Day Plan to keep NSW Moving Forward'. Accessed at: <<https://nswliberal.org.au/news/first-100-day-plan-to-keep-nsw-moving-forward>>.

Sydney Morning Herald's pre-election editorial commented that Perrottet 'has proven himself to be a premier with promise. He has exhibited more political bravery than Minns on the key economic and social issues'.³⁷

Perrottet's most ambitious policy was aimed at dealing with problem gambling arising from the large number of poker machines in hotels and clubs. A report from the NSW Crime Commission revealed that they were a major means of money laundering. Gambling was a serious social problem, with gamblers losing \$2.1 billion on poker machines in 100 days in 2022.³⁸ The Premier decided to take on the gambling industry, particularly the well-resourced, powerful and aggressive club lobby, which many of his predecessors had been reluctant to do. His key policy was a cashless gaming card linked to an individual who had to prove their identity. The card would be mandatory from 2028 and would require people to set limits before gambling. Cooling-off periods and breaks in play would be compulsory and the transfer of funds from credit cards and automatic top-ups prohibited. Veteran anti-gambling crusader Tim Costello, the Police Commissioner, Crime Commission and Unions NSW all backed Perrottet's proposal.³⁹ Minns was wrong-footed: his alternative policy of a trial of cashless gaming for 500 machines was widely criticised as weak and beholden to the gambling industry.⁴⁰ However, gambling never became a major issue in the campaign.

THE CAMPAIGN

The campaign rarely rose above mundane, 'bread and butter' issues. Apart from the personal approaches of the Leaders as described above, a significant cause was the backdrop: increasing interest rates, rising inflation, housing unaffordability, growing

³⁷ 'Both leaders are decent, smart and capable but one offers a more ambitious vision for NSW', *Sydney Morning Herald*, 24 March 2023.

³⁸ Alexandra Smith, 'Perrottet's poker machine revolution passes snap meeting of cabinet', *Sydney Morning Herald*, 5 February 2023.

³⁹ Alexandra Smith, 'A no-brainer: Unions NSW joins Perrottet's cashless pokies push', *Sydney Morning Herald*, 5 January 2023.

⁴⁰ Tom Rabe and Luck Cormack, 'NSW Labor promises to cut pokies as gambling reform ignites debate', *Sydney Morning Herald*, 16 January 2023; Tim Costello, 'Perrottet has rolled the dice. Now Minns must up the ante', *Sydney Morning Herald*, 6 February 2023.

pressure on public services such as health and education, and a deteriorating economic situation. As a result of COVID, natural disasters and rising interest rates, the Budget was deeply, and increasingly, in deficit. A *Herald* survey in March showed that 50 per cent of voters ranked the cost of living as their priority issue.⁴¹

The issues that dominated the campaign were public sector wages and privatisation. Minns repeatedly promised to abolish the wage cap which had been put in place by O'Farrell soon after he was elected. It had significantly contained recurrent expenditure but had resulted in public sector wages trailing the private sector and the inflation rate. Labor claimed abolishing the wage cap would be cost neutral over four years because any increase would be offset by savings within the public sector.⁴² It was a popular move, particularly as many voters were sympathetic to the plight of front-line workers such as nurses and paramedics.

Perrottet went on the attack arguing 'removing that cap will result in expenses spiraling out of control, and that means services will have been cut, infrastructure, schools and hospitals not built. Just like last time that they [Labor] were in office'.⁴³ He was assisted by the Parliamentary Budget Office which said in its review of election costings that a Labor government would struggle to find the cost savings needed to pay increased salaries.⁴⁴ Minns was vague about the details of his alternative remuneration plan and could not guarantee that public servants would receive a rise higher than the 3 per cent the Government was offering.⁴⁵

Minns took advantage of the unpopularity of privatisation, one of the Government's most consistent policies throughout its term, to launch an effective attack. Although asset recycling had, chiefly through the privatisation of the electricity 'poles and wires', delivered a massive infrastructure program, voters had become *blasé* and it was no

⁴¹ Resolve Political Monitor, conducted by Resolve Strategic on behalf of *The Sydney Morning Herald* and *The Age*. Accessed at: <<https://www.smh.com.au/national/resolve-political-monitor-20210322-p57cvx.html>>.

⁴² Ann Hyland, 'Chris Minns' plan to cut the public service doesn't add up', *Sydney Morning Herald*, 12 March 2023.

⁴³ Tom Rabe and Angus Thomson, 'Perrottet tells election debate Berejiklian wasn't unfairly treated by ICAC', *Sydney Morning Herald*, 15 March 2023.

⁴⁴ Matt Wade and Alexandra Smith, 'Warning sounded after cost of promises put under microscope', *Sydney Morning Herald*, 20 March 2023.

⁴⁵ Tom Rabe and Angus Thomson, 'Perrottet tells election debate Berejiklian wasn't unfairly treated by ICAC', *Sydney Morning Herald*, 15 March 2023.

longer the vote-winner it had previously been. The director of the *Herald's* Resolve Political Monitor, Jim Reed, said that 'in a sign of just how offensive voters find the prospect of further [asset] sales now, they would rather that spending is cut, taxes raised or additional debt taken on than go down that path'.⁴⁶ Minns promised that there would be no further privatisation and blamed previous asset sales by the Coalition for rising electricity prices and toll road charges.

In a sign that the issue was biting, Perrottet responded with a commitment that under a re-elected Government there would be no more privatisation. This played into Labor's hands, allowing it to claim that, to fund his heavily promoted infrastructure program, Perrottet would either have to increase debt to dangerous levels or break his promise. Minns ran an effective scare campaign on the latter theme, claiming that the Coalition was covertly planning to sell Sydney Water.⁴⁷

Neither Leader faltered under pressure on the campaign trail. Like Minns, Perrottet preferred to play the game 'hard but fair' - the two avoided personal attacks, had civil exchanges and seemed to have a mutual respect. The final Resolve poll on 19 March still showed Perrottet as the more popular, with 40 per cent preferring him as Premier to 34 per cent for Minns. In the primary vote, Labor and the Coalition were on 38 per cent each.⁴⁸ Newspoll on 24 March was more favourable for the ALP, with Minns slightly ahead as preferred Premier, 41 per cent to 39 per cent. On primary votes, Labor led 38 per cent to 35 per cent.⁴⁹

⁴⁶ Alexandra Smith, 'There's one issue dominating the thoughts of NSW voters', *Sydney Morning Herald*, 2 March 2023.

⁴⁷ Tamsin Rose, 'Dominic Perrottet promises not to sell any more NSW public assets if re-elected', *Guardian*, 28 February 2023; *Sydney Morning Herald*, 1 March 2023.

⁴⁸ *Resolve Political Monitor*, conducted by *Resolve Strategic* on behalf of *The Sydney Morning Herald* and *The Age*. Accessed at: <<https://www.smh.com.au/national/resolve-political-monitor-20210322-p57cvx.html>>.

⁴⁹ NewsPoll, conducted on behalf of *The Australian*. Accessed at: <<https://www.theaustralian.com.au/nation/newspoll>>.

INDEPENDENTS AND MINOR PARTIES

The Liberals faced challenges in safe seats, particularly in Sydney’s northern suburbs, from ‘Teal’ and other community-based independent candidates hoping to replicate their counterparts’ success at the 2022 Federal election. These state level independents faced four disadvantages compared with their federal counterparts. First, unlike the federal Teals, most did not begin campaigning until relatively close to the election. Second, the long-standing presence of the NSW Independent Commission Against Corruption and the NSW government’s record on environmental issues made the state Liberals harder to target on the key issues of integrity reform and climate change than the federal Liberals under Scott Morrison.⁵⁰ Third, NSW election funding rules placed more stringent limits on the amounts the state Teals and their supporters could spend campaigning.⁵¹ Finally, the NSW optional preferential voting system made the independents’ task more difficult than that of their federal counterparts competing in a full preferential system, who could rely on strong preference flows from voters supporting other candidates to defeat Liberal candidates (see below). The Liberal campaign in northern Sydney electorates featured generic ‘You can just vote 1’ posters designed to reduce the flow of preferences to independents.⁵² Regardless of these disadvantages, the potential Teal challenge forced the Liberal Party to expend resources in normally safe seats that would otherwise have gone into ‘sandbagging’ marginal electorates.⁵³

Beyond the Teals, the three independents elected in 2019—Alex Greenwich in inner-Sydney, Greg Piper in the Hunter region and Joe McGirr in rural NSW—all looked likely to hold their seats. Suspended Liberal MP Gareth Ward’s attempt to hold Kiama as an independent was aided by the Liberal Party’s failure to announce a candidate until 7 March, just two and a half weeks before polling day. The Liberal State Executive

⁵⁰ Saville, *The Teal Revolution*.

⁵¹ Margot Saville, ‘NSW rules won't help teals in coming 'Kmart election', *Sydney Morning Herald*, 31 January 2023.

⁵² Tamsin Rose, ‘Election sign row triggers teal push to make preferential voting compulsory in NSW’, *The Guardian*, 23 March 2023.

⁵³ Samantha Hutchinson, ‘NSW Liberals fear revolt in key marginal seats’, *Australian Financial Review*, 25 March 2023.

endorsed MP Melanie Gibbons, who had represented Holsworthy and lived outside Kiama. Some unhappy local Liberals threatened to campaign for Ward.⁵⁴

Twelve registered minor parties contested the election, including four that had won seats in previous NSW elections: The Greens NSW, the Shooters Fishers and Farmers Party (SFF), Pauline Hanson's One Nation Party (PHON) and the Animal Justice Party (AJP). The Greens had been the most successful. In 2023, they hoped for another 'Greenslide',⁵⁵ a reference to the 2011 NSW election, in which they won a record 11.1 percent vote, three Legislative Council seats and a breakthrough Legislative Assembly victory in the inner-Sydney electorate of Balmain.⁵⁶ The Greens goals in 2023 were to 'kick the Liberals out' and hold the balance of power in the Legislative Assembly, forcing a Labor government to adopt progressive legislation.⁵⁷ As in recent NSW elections, the Greens were the only minor party to run a candidate in all 93 Assembly seats. Incumbent Green MPs Jenny Leong in inner-Sydney Newtown and Tamara Smith in Ballina on the north coast recontested their seats but Jamie Parker retired from Balmain after 12 years. Sensing the opportunity to regain a spiritual heartland, Labor put considerable resources into its Balmain campaign against Greens candidate Kobi Shetty.⁵⁸

After a period in relative inactivity in NSW, PHON revived its fortunes at the 2019 election under the leadership of Mark Latham, winning two Legislative Council seats. In October 2022, Latham announced he would resign his Council seat four years early to contest the 2023 election, clearly hoping that his name on the ballot paper would result in PHON gaining another two seats, while allowing the party to nominate a replacement for the rest of his original eight-year term. Commentators acknowledged

⁵⁴ Kelly Fuller, 'NSW Liberals 'Blindsided' by Last-Minute Kiama Candidate as Some Seek to Back Gareth Ward', *ABC News Online*, 11 March 2023.

⁵⁵ The Greens, 'The Next Greenslide'. Accessed at: < <https://greens.org.au/magazine/2023-nsw-state-election>>.

⁵⁶ Rodney Smith, 'Non-Rural Independents and the Minor Parties', in David Clune and Rodney Smith (eds.), *From Carr to Keneally: Labor in Office in NSW 1995-2011*, Sydney, Allen and Unwin, 2012, 39-52; Stewart Jackson, *The Australian Greens: From Activism to Australia's Third Party*, Melbourne, Melbourne University Press, 2016, pp. 56-57.

⁵⁷ The Greens, 'The Next Greenslide'.

⁵⁸ Lucy Cormack and Tom Rabe, 'Balmain Greens MP Jamie Parker to quit politics at state election', *Sydney Morning Herald*, 14 October 2022; Jessica Wang, 'Labor Hit with Pork Barrelling Accusations over \$20k Promise to School', *news.com.au*, 15 March 2023.

the constitutionality of Latham's unusual move but some questioned its ethics. They also noted how reliant PHON remained, after 25 years in NSW politics, on the profile of its leader.⁵⁹ PHON nominated candidates in 17 Assembly seats and ran on a broad slate of policies; however, Latham gained most attention for arguing that LGBTQI activism and a 'grab-bag of gender, sexual and relationship indoctrination courses' in schools were undermining parental rights and religious freedoms.⁶⁰

Latham's prominence on these issues was aided by the collapse of the CDP in 2022. The 2023 election was notable as the first in over four decades not to feature candidates from the conservative Christian party (originally named Call to Australia). CDP's first and only leader, the 88-year-old Reverend Fred Nile, had served in the Legislative Council, except for a brief hiatus, since 1981. Nile had regularly fallen out with key colleagues over the decades.⁶¹ A new round of power struggles led to internal legal challenges and the CDP's deregistration. Nile and his wife Silvana contested the 2023 Legislative Council election without the benefit of a registered party name or an 'above the line' voting square on the ballot paper.⁶² Lyle Shelton, whom Nile had briefly anointed in 2021 as CDP leadership successor, headed a rival Christian ticket, also without the benefit of a party name but with an above the line voting square. It seems that these events led key conservative Christian bodies to support Latham as the most visible fellow traveler contesting the election.⁶³

Another well-established minor party also faced damaging internal conflicts in the 12 months before the election. The SFF, originally formed as the Shooters Party in 1992 and represented in the Legislative Council since 1995, had a successful 2019 election. It retained a Legislative Assembly seat won from the National Party at a 2016 by-election and picked up two further Assembly seats from the Nationals. In March 2022, Helen Dalton quit the SFF over water policy to sit as an independent MP. Following

⁵⁹ Michael McGowan, 'Mark Latham's Bid to Leave NSW Parliament to Run Again a Question of 'Ethics', not Legality', *The Guardian*, 13 October 2022.

⁶⁰ Pauline Hanson's One Nation, 'NSW One Nation's Policies and Achievements'. Accessed at: <<https://nsw.onenation.org.au/our-policies-achievements/#policies>>; 'Editorial: Politics of Hate Cast a Pall over State Election Campaign', *Sydney Morning Herald*, 22 March 2023.

⁶¹ Rodney Smith, *Against the Machines*, pp. 184-186.

⁶² Ben Raue, 'NSW Election: Slim Rightwing Majority in Upper House is Under Threat, Polls Suggest', *The Guardian*, 23 March 2023.

⁶³ See, for example, 'Mark Latham and the ACL - Wendy Francis || 20Twenty with Neil Johnson'. Accessed at: <<https://www.youtube.com/watch?v=NiplKuXMcCk>>.

threatening comments made by SFF Leader Robert Borsak against Dalton, MPs Philip Donato and Roy Butler left the party in December. All three MPs recontested their rural seats as Independents in fields that included SSF candidates.⁶⁴

Other minor parties received little attention. Some observers gave the Legalise Cannabis Party an outside chance in the Council race, given its ticket was headed by former Green MLC Jeremy Buckingham, it had recently won two upper house seats in both Victoria and Western Australia, and it had prominent individual donor support.⁶⁵

THE LEGISLATIVE ASSEMBLY RESULTS

The understated and uninspired campaign described above led to an indecisive result. The election night vote count suggested that Labor had done better than most commentators expected. At the close of the night's counting, veteran ABC election analyst Antony Green predicted Labor would win a slim majority with 50 Assembly seats.⁶⁶ As counting continued over the next few days, however, it became clear that earlier predictions of a hung parliament had been borne out. Labor ultimately improved on its 2019 result, increasing its primary vote by 3.7 percent and winning 45 seats, two short of majority government (see Table 1). Labor came close to a majority, failing to win Ryde by 0.1 percent of the vote and Holsworthy by 0.4 percent.⁶⁷

The seats that moved to Labor included Bega, which Labor won at a 2022 by-election and retained in 2023, and Heathcote, which had notionally become a Labor electorate following the 2021 redistribution. Labor took a further seven seats from the Coalition, one fewer than its state-wide 'two-party' swing of 6.3 percent predicted, according to the ABC's pre-election electoral pendulum. Three of the seven seats (East Hills, Penrith

⁶⁴ Ashleigh Raper and Kristy Reading, 'Shooters, Fishers and Farmers MPs Resign from Party over Behaviour of Leader Robert Borsak', *ABC News Online*, 12 December 2022.

⁶⁵ Tamsin Rose, 'NSW Election: Legalise Cannabis Eyeing an Upper House Seat in Bid to Overturn Drug-Driving Law', *The Guardian*, 20 March 2023.

⁶⁶ Paige Cockburn, Kevin Nguyen and Leigh Tonkin, 'NSW Elects Labor's Chris Minns to be Premier, Dominic Perrottet Stands Down as Liberal Leader—As It Happened', *ABC News Online*, 26 March 2023.

⁶⁷ NSW Electoral Commission, 'NSW State Election Results 2023'. Accessed at: <https://pastvtr.elections.nsw.gov.au/SG2301>.

and Riverstone) were electorates that the pendulum indicated Labor should win.⁶⁸ Labor's other seat gains came with two-party swings above 6.3 percent: Parramatta (6.5 percent), Camden (7.3 percent), South Coast (10.6 percent) and Monaro (11.6 percent).⁶⁹

Table 1. Table 1. 25 March 2023 Legislative Assembly Results

	First preference votes (%)	Swing from 2019 (%)	Seats contested	Seats won	Seat change from 2019
Labor	37.0	3.7	93	45	+9
Liberal	26.8	-5.2	75	25	-10
National	8.6	-1.0	20	11	-2
Greens	9.7	0.1	93	3	0
Sustainable Australia	2.2	0.7	82	0	--
One Nation	1.8	0.7	17	0	--
Shooters, Fishers and Farmers	1.6	-1.9	20	0	-3
Legalise Cannabis	1.3	1.3	23	0	--
Animal Justice	1.1	-0.4	33	0	--
Independents	8.8	4.0	^b 53	9	+6
Others ^a	1.2	-0.6	^b 25	0	--

⁶⁸ Antony Green, 'Pendulum—NSW Election 2023'. Accessed at: <https://www.abc.net.au/news/elections/nsw/2023/guide/pendulum>.

⁶⁹ NSW Electoral Commission, 'NSW State Election Results 2023'.

Total	100.0	N/A	N/A	93	N/A
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^a Combined parties each with less than 1.0 percent of the state-wide vote.

^b Includes seats contested by multiple Independent and 'other' candidates.

Source: Calculated from NSW Electoral Commission figures.

In contrast with the 2019 election, when Labor won votes across some regions but lost ground in others, in 2023 Labor increased its first preference and two-party preferred vote shares across all regions in NSW.⁷⁰ As Table 2 shows, however, the swings to Labor ranged widely, from a high of over nine percent in southern Sydney to below one percent in inland rural electorates. Although Labor increased its first preference vote across western Sydney, in two-party terms Labor made weaker gains in Sydney's west than anywhere else across the state, except for the rural coastal and inland rural regions. All four seats within the 6.3 percent range that Labor failed to take from the Coalition came from western Sydney (Winston Hills and Holsworthy) and inland rural NSW (Upper Hunter and Goulburn).

The Coalition endured a 6.2 percent first preference swing against it and won 36 Assembly seats, 12 fewer than its 2019 result (see Table 1). The Liberal Party suffered most, losing 5.2 percent of the vote and 11 seats. Including Bega, nine Liberal seats were lost to Labor (see above), with a further three seats (Wakehurst, Wollondilly and Kiama) lost against Independents. The Liberal Party had one gain of sorts, when Leslie Williams, who had defected from the Nationals to the Liberals in September 2020, retained her seat of Port Macquarie. The National Party lost just one seat (Monaro) to Labor but failed to regain the seats it had lost between 2016 and 2019 to Shooters, Fishers and Farmers Party candidates, who were now running as Independents.⁷¹

⁷⁰ See e.g. David Clune and Rodney Smith, 'Back to the 1950s: the 2019 NSW Election', *Australasian Parliamentary Review* 34(1), Autumn/Winter 2019: 86-101.

⁷¹ NSW Electoral Commission, 'NSW State Election Results 2023'.

Table 2. 2023 NSW Legislative Assembly Election Results by Region

	Inner Sydney	Northern Sydney	Southern Sydney	Western Sydney	Central Coast	Hunter/ Illawarra	Rural Coastal	Inland Rural	State- wide
Liberal-National average first preference vote (%)	29.6	45.0	39.6	32.9	32.9	18.7	42.5	43.2	35.4
Liberal-National average first preference swing (%)	-3.6	-10.2	-9.9	-6.3	-6.8	-10.3	-5.7	-1.7	-6.3
Labor average first preference vote (%)	39.8	23.6	43.7	45.7	46.7	49.8	27.6	20.0	37.0
Labor average first preference swing (%)	4.1	4.3	9.4	4.0	5.3	2.6	2.1	0.5	3.7
Liberal-National two party preferred vote versus Labor (%)	36.6	57.3	45.6	41.4	39.6	28.1	54.1	65.6	45.7
Liberal-National two party preferred swing versus Labor (%)	-8.6	-8.5	-9.3	-5.6	-7.2	-8.6	-3.4	-0.1	-6.3
Greens average first preference vote (%)	19.2	9.9	8.8	6.6	8.9	10.2	12.5	5.0	9.7
Greens average first preference swing (%)	1.8	-2.4	1.4	0.6	-0.2	0.4	-0.9	0.1	0.1
'Other' average first preference vote (%)	11.4	21.5	8.0	14.7	11.6	21.2	17.4	31.7	17.9
'Other' average first preference swing (%)	-2.3	8.3	-0.9	1.8	1.7	7.3	4.4	-0.3	4.7

The Coalition won its highest votes in its northern Sydney, rural coastal and inland rural heartlands, whether measured by first preferences or its two-party preferred vote against Labor. While the Nationals more or less halted the vote losses they suffered in 2019 in their inland rural electorates, the Liberals suffered relatively high swings both on first preference votes (-10.2 percent) and the two-party preferred vote versus Labor (-8.5 percent) in northern Sydney seats. The lower negative swings suffered by the Liberals in western Sydney lend weight to the conclusion that the city's west remains a competitive battleground for the major parties (Table 2).⁷²

The election left a crossbench of 12 (see Table 1). The Greens held their three Assembly seats but no 'Greenslide' eventuated. The Greens' stronghold is evident in Table 2, as is their relative weakness in western Sydney. The three ex-SFF MPs retained their seats as Independents, as did the three successful Independents from 2019, along with the ex-Liberal Independent Ward. Two community Independents—Michael Regan in Wakehurst on Sydney's northern beaches and Judy Hannan in semi-rural Wollondilly to Sydney's south-west—won seats.

⁷² Clune and Smith, 'Back to the 1950s', pp. 94-96.

Table 3. ‘Teal’ Independent Results under Optional Preferential Voting and Predicted Results under Full Preferential Voting

1	2	3	4	5	6	7	8
Electorate	Independent Candidate	Independent Two Candidate Preferred Vote	Independent Shortfall below ‘True’ Majority	Preference Flow Required for Independent to Win a ‘True’ Majority	Actual Preference Flow to Independent	Winner under OPV	Predicted Winner under FPV
Lane Cove	Victoria Davidson	19913	6118	93.1%	81.5%	Liberal	Liberal
Manly	Joeline Hackman	21027	5386	86.1%	78.9%	Liberal	Liberal
North Shore	Helen Conway	18329	5760	84.6%	81.8%	Liberal	Liberal
Pittwater	Jacqui Scruby	22759	1997	59.0%	80.3%	Liberal	Independent
Willoughby	Larissa Penn	22277	4139	71.0%	82.9%	Liberal	Independent

Source: Calculated from NSW Electoral Commission figures.

The ‘Teal’ Independents failed to replicate their federal success in Sydney, winning no seats. Table 3 suggests that another two Teal Independents may have won their contests had full preferential voting, rather than optional preferential voting, been used in the election. Column 3 in Table 3 shows the two candidate preferred votes received by each Independent against their Liberal rivals. Column 4 shows the additional votes each Independent would have needed to secure a majority if the ballots that were excluded from the count as ‘exhausted’ had contained a full set of preferences and therefore remained in the count until the end. Column 5 shows the preference flow each Independent would have needed from the exhausted ballots to achieve that ‘true’ majority of all votes cast. Column 6 shows the actual preference flow that the Independent achieved in the ballots that indicated preferences between the Independent and the Liberal candidate.

As shown in Column 6, the actual preference flows to the Teal Independents against Liberal candidates were consistently very high (between 78.9 percent and 82.9

percent). In Pittwater, the actual preference flow to Independent Jacqui Scruby (80.3 percent) was well above the required preference flow required for her to gain a 'true' majority of all votes (59.0 percent), suggesting she would have won the seat under full preferential voting. The case of Willoughby is more marginal; however, the actual preference flow achieved by Larissa Penn was 10.9 percent ahead of the preference flow required for her to win the seat under full preferential voting. The concerns expressed by Independent candidates before polling day that optional preferential voting would disadvantage them seem to have been borne out.

THE LEGISLATIVE COUNCIL RESULTS

The quota of statewide votes needed for election to the Legislative Council in 2023 was 209,858. Labor's primary vote of 36.9 percent gained it eight quotas without having to rely on preferences from voters for other groups. The Liberal/Nationals ticket similarly secured six quotas with 29.8 percent of the primary vote. The Greens and PHON each claimed single seats by securing full quotas of primary votes. In this way, 16 of the 21 Council seats were decided after seventeen rounds of counting. Determining the final five seats took a further 270 rounds of preference distributions. The second Greens candidate won a seat at Count 277 after reaching a full quota. The final four seats were decided on Count 287. One candidate each from Legalise Cannabis, the Liberal Democrats, the Shooters Fishers and Farmers and the Liberal/National ticket secured seats without achieving full quotas but having more votes than the only other remaining candidate, the Animal Justice Party's Alison Waters, who was eliminated (see Table 4).

Several features of the Council result deserve comment. First, Labor secured a stronger swing in the Council election than in the Assembly election. Much of its Council swing appears to have occurred at the expense of the Coalition but not all of it can have been. It is impossible to tell from the aggregate figures but Labor may have benefitted from the small statewide swing away from the Greens that occurred in the Council election. Since Labor's catastrophic loss in 2011, it has increased its share of the Council vote by 13.2 percent, while the Greens vote share has declined by 2.0 percent.

Table 4. 2023 Legislative Council Votes and Seats

Party	First preference vote 2023(%)	Swing in from 2019 (%)	Seats won in 2023(n)	Change in seats won 2019-23	Total seats after the 2023 election ^a
Labor/Country Labor	36.9	6.9	8	+1	15
Liberal/National	29.8	-5.0	7	-1	15
Greens	9.1	-0.6	2	--	4
One Nation	5.9	-1.0	1	-1	3
Legalise Cannabis	3.7	n/a	1	+1	1
Liberal Democrats	3.5	1.3	1	+1	1
Shooters, Farmers and Fishers	3.1	-2.4	1	--	2
Animal Justice	2.2	0.2	0	-1	1
Elizabeth Farrelly Independents	1.3	n/a	0	n/a	0
Group A	1.3	n/a	0	n/a	0
Other ^b	3.2	0.7	0	n/a	0
Total	100.0	n/a	21	--	42

^a Members of the Legislative Council serve eight year terms, with half of the 42 seats contested at each election.

^b Combined parties and Independents with less than 1.0 percent of the state-wide vote each.

Source: Compiled from NSW Electoral Commission figures.

Second, Mark Latham's strategy of seeking early re-election did not prevent One Nation from losing votes or reducing its seat return from two seats in 2019 to one in 2023. With Latham re-elected, Tania Mihailuk filled his vacated seat. She soon became the sole One Nation MLC, as Latham and another One Nation MLC left the party

following a dispute with Pauline Hanson over One Nation's performance in the election and its electoral funding arrangements.⁷³

Third, the election saw the Council continue its long record of diverse party representation. The demise of the Christian Democrats means the Council no longer has a conservative Christian voice; however, two minor parties—Legalise Cannabis and the libertarian Liberal Democratic Party—won Council representation for the first time. Although these parties hold a shared position on drug reform, they are likely to be opposed on many other issues.

CONCLUSION

The 2023 NSW election raised at least two key questions. One is whether Labor could have won a more decisive victory against a 12-year-old Government that showed classic signs of having been in office too long: scandals, disunity, and a decline in its personnel. Barry O'Farrell, facing a Labor Government in disarray in 2011, achieved a two-party preferred swing of 16.5 per cent and a 23 seat majority, compared with Minns' 6.3 per cent and minority government. One factor may have been that the Coalition Government's problems really only began with Gladys Berejiklian's resignation 17 months before the election, a shorter period than the four years of increasing chaos that marked the last term of the Labor Government. Another factor, noted earlier, may have been the ability of Perrottet to present himself and his Cabinet as competent policymakers. The small target strategy adopted by Minns of agreeing with the Government wherever possible and offering few new major policies of his own may also have left many voters unconvinced that there was any fundamental crisis in NSW that required a change of government.

The second question concerns the impact of the election results on NSW parliamentary politics until the next election in March 2027. Politics in the Legislative Council are likely to follow what the Clerk of the Council has called the 'new normal',⁷⁴ with the

⁷³ Samantha Hutchinson, 'Latham quits One Nation, accuses Hanson of roting NSW', *Australian Financial Review*, 22 August, 2023.

⁷⁴ David Blunt, 'Clerk's Review', in Department of the Legislative Council, *Annual Report 2022*. Sydney: Parliament of New South Wales, 2022, p. 5.

Government having to accept high levels of parliamentary scrutiny via crossbench and Opposition use of ‘orders for papers, private members business, amendments to bills, and searching committee inquiries’. The Minns Government will know what to expect, given its participation in this scrutiny while in Opposition.

Minority government in the Legislative Assembly is more unusual, although as noted earlier in this article, the Perrottet Government was in minority for most of its final year. With the Independent Greg Piper taking the Speakership, Labor retained all its 45 Assembly votes in divisions, making its task of securing majorities a little more straightforward. The early signs are that the Opposition and crossbenchers in the Legislative Assembly may combine to strengthen the Assembly’s legislative committee work and increase scrutiny on the Government.⁷⁵ Nonetheless, the Assembly is unlikely to repeat the levels of parliamentary assertiveness it achieved in the last full period of minority government in NSW from 1991 to 1995. Within days of the election, Labor secured ‘confidence and supply’ agreements with three key Independents, who apparently did not demand or request any specific concessions in return.⁷⁶ None of the current group of crossbench Members appears to have the sort of parliamentary reform agenda that drove the Independents in 1991. Equally importantly, the Minns Government’s modest policy agenda is less likely to stir up the crossbench than the ambitious reforms of Premier Nick Greiner did in 1991

⁷⁵ See the Legislative Assembly Select Committee on the Residential Tenancies Amendment (Rental Fairness) Bill 2023.

⁷⁶ Lucy Cormack and Matt Wade, ‘Supply assured but majority in the balance’, *Sydney Morning Herald*, 28 March 2023.

Electoral Studies and data-driven analysis: A Victorian case study

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Abstract: Australia and its component states have rich histories of electoral competition and political institutions. Yet accessible data and existing studies remain quite rare. Currently, the materials available are patchy and vary in quality and depth. These often understandably focus on national-scale processes while neglecting the diverse experiences of different states and jurisdictions. One way state-based Parliaments and associated researchers can contribute to filling this void is through producing good quality and engaging materials using data analysis and visualisation-based approaches. The Victorian Parliamentary Library produced material experimenting with these approaches in the lead-up to the December 2022 election. It utilised data from the web and official sources to provide an overview of the history of electoral contests in the state. Using a range of data analysis tools and visualisation and geo-visualisation packages in R and Python, it presented an overview history with various illustrations of election results over time. There are undoubtedly other opportunities for undertaking similar investigations in other jurisdictions and generating more interest in Australian political institutions. Data analysis and visualisation tools continue to become more available and are one set of tools that could help underpin such approaches. Following a review of the state of electoral studies and the potential for data-based approaches for research, it outlines their application to Victoria's electoral history. The conclusion argues that the potential exists for more extensive studies by digitising historical and contemporary electoral data sources.

¹Information in this paper was current as at the time of publication. Any views expressed are those of the author.

INTRODUCTION

Australia and its component states have rich histories of electoral competition and political institutions. Yet accessible data and existing studies remain quite rare. While more material is available nationally, less exists at the state and local levels. In Victoria, for example, the official parliamentary history (*A People's Counsel*, published in 1992) is the primary 'go-to' source for published information.² The November 2022 state election in Victoria allowed parliamentary researchers to provide some redress for this by producing an interactive and visualisation-based publication focusing on the state's electoral history.³ There are undoubtedly other opportunities for undertaking similar investigations in other jurisdictions and generating more interest in Australian political institutions.

There are good reasons for researching and publishing more material on the history of electoral competition at these levels. It could help inspire a greater interest in and appreciation of the history and functions of parliamentary institutions. On the one hand, evidence exists of increasing levels of political dissatisfaction in Australia. As with many other jurisdictions worldwide, there is growing disenchantment with political institutions.⁴ Parliaments face significant challenges in meeting changed expectations and the rise of new forms of communication and interaction.⁵ Perhaps the challenge remains moving people away from dissatisfaction towards critical engagement. One way to encourage this could be through more accessible data and innovatively presented information. A renewed focus on evaluating and refreshing civics education

² Raymond Wright, *A People's Counsel: A history of the Parliament of Victoria. 1856-1990*. South Melbourne: Oxford University Press, 1992.

³ Ben Reid and Caleb Triscari, Parliamentary Library & Information Service, Parliament of Victoria, 'Visualising Victoria's electoral history.' Accessed at: <https://www.parliament.vic.gov.au/4adf09/globalassets/images/news/library-papers/2022_12_visualising_victorias_electoral_history_rn_.pdf>.

⁴ Christine Eder, Ingvill C. Mochmann and Markus Quandt, *Political Trust and Disenchantment with Politics: International Perspectives*. Leiden: Brill. 2014; Bede Harris, *Constitutional Reform as a Remedy for Political Disenchantment in Australia*. Singapore: Springer. 2020; Colin Hay, *Why we hate politics*. London: Polity Press, 2007.

⁵ Cristina Leston-Bandeira, 'How public engagement has become a must for parliaments in today's democracies' *Australasian Parliamentary Review*, 37(2) 2022, pp. 8-16; Andres Lomp, 'Taking community engagement to the next level.' *Australasian Parliamentary Review*, 37(2) 2022, pp. 26-29.

may, for instance, involves producing and disseminating accessible material.⁶ Other audiences would also be interested.

Data analysis and visualisation tools continue to become more available and are one set of tools that could help underpin such approaches.⁷ The methods used in the Victorian Parliamentary Library study provide an overview of some of the applications and code-based languages available for electoral analysis. It involved the extensive application of R (and, to a lesser extent, Python) coding.⁸ The discussion below details the methods used for obtaining and processing data, conducting analysis, and creating and deploying visualisations.

This article argues that data analysis and visualisation methods offer avenues for renewed research into the development of Australia's political and electoral systems and communicating these studies to broader audiences. Following a review of the state of electoral studies and the potential for data-based approaches for research, it outlines their application to Victoria's electoral history. The article argues that the potential exists for more extensive studies by digitising historical and contemporary electoral data sources. In a sense, this is a 'paper about a paper': it illustrates both the original analysis and the challenges and potential for further research and publications using data and visualisation tools.

⁶ Zareh Ghazarian and Jacqueline Laughland-Booÿ, 'Submission to the Electoral Matters Committee. *Inquiry into the Conduct of the 2022 Victorian State Election*. Accessed at: <https://www.parliament.vic.gov.au/490bf3/contentassets/fd34cb6dd71e436580e2701e0b9b5205/submission-documents/093.-dr-zareh-ghazarian_redacted.pdf>.

⁷ Edward Tufte, *Beautiful Evidence*. Cheshire, Conn.: Graphics Press, 2006; Cole Nussbaumer Knaflic. *Storytelling with Data: A data visualization guide for business professionals*. Hoboken, New Jersey: Wiley, 2015.

⁸ Mark Andrews, *Doing Data Science in R: An introduction for social scientists*. London: SAGE Publications, 2021. Jose Manuel Magallanes Reyes, *Introduction to Data Science for Social and Policy Research*. Cambridge: Cambridge University Press, 2017.

ELECTORAL STUDIES AND AUSTRALIA

Various disciplines focus on studying elections, party systems and legislative processes.⁹ Their focus ranges from understanding how electoral systems work to analysing and explaining voting trends and outcomes. There are many different electoral systems internationally and historically, with considerable debate over their comparative appropriateness. Various political parties and party systems invariably both reflect and shape these institutions. The processes underpinning the formulation and implementation of legislation also vary.

While substantial literature dealing with many of these aspects of electoral institutions in Australia exists, there are two crucial gaps. First, much of the literature on Australian politics understandably focuses on national-scale processes.¹⁰ These understandably emphasise the electoral system's general features, the party system's emergence, and the underlying social bases of support for the main electoral parties. The variations and differences in the state-level political institutions and histories are less well documented. In the case of Victoria, scholarly journals and some other sources provide state-level commentary and analyses, especially in the post-war period. Some materials exist on more recent facets of Victoria's political history.¹¹ Regarding a longer-run view, the most comprehensive source remains Raymond Wright's official parliamentary history or more general state histories.¹²

Second, there is also scope for deploying more recently developed approaches based on data analysis and visualisation. Researchers interested in electoral history and processes also face considerable limits on data availability. Much of the historical data on election results primarily exists in analogue form. Recent attempts by the University of Western Australia to develop summary historical datasets on election results in

⁹ Herron, Erik S., Robert J. Pekkanen, and Matthew S. Shugart (eds), *The Oxford Handbook of Electoral Systems*. Oxford Handbooks (2018); online edition. Oxford Academic. Accessed at: <<https://doi.org/10.1093/oxfordhb/9780190258658.001.0001>>.

¹⁰ Donald Aitkin, *Stability and Change in Australian Politics*. Canberra: ANU Press, 1982; Frank Bongiorno, *Dreamers and Schemers: A Political History of Australia*. Collingwood: Black Inc, 2022.

¹¹ Paul Strangio and Brian J. Costar (eds), *The Victorian Premiers, 1856-2006*. Leichhardt: Federation Press, 2006; Paul Strangio, *Neither Power Nor Glory: 100 Years Of Political Labor In Victoria, 1856-1956*. Parkville: University of Melbourne Press, 2012; 'Victoria.' *Australian Journal of Politics and History*, various years.

¹² Raymond Wright, *A People's Counsel.*; Geoffrey Blainey, *A History of Victoria*. Cambridge: Cambridge University Press, 2013.

Australia floundered.¹³ Where data is available, though, it provides the potential for new insights and analysis.

Electoral outcomes and institutional changes often reflect responses to social challenges and change. The studies of the econometrics and geography of elections have increasingly involved applying sophisticated Geographical Information- Systems-based and other computational tools.¹⁴ More recently, the availability of visualisation-based computation tools has added momentum to and the potential for new avenues of research and education.

DATA ANALYSIS AND VISUALISATION

Developing more significant computational resources and software availability provides avenues for more in-depth studies of historical and contemporary data. Paradoxically, while computational power and applications have grown in scope, a lack of readily available longer-run historical data hampers research.

The Victorian Parliamentary Library's historical study obtained data from three primary sources. First, the Victorian Electoral Commission (VEC) provides access to more recent data from 2010 onwards.¹⁵ The data has considerable detail, including vote counts for both houses. Nonetheless, the data's organisation and categorisation organisation could be improved, especially when compared to the Australian Electoral Commission (AEC) and other authorities.¹⁶ The AEC's data provides candidates, electorates, and polling booths with consistent unique identifiers to enable efficient manipulation and

¹³ University of Western Australia, 'Search for Australian election results, governments and parties in the Australian Politics and Elections Database.' Accessed at: <<https://elections.uwa.edu.au/>>.

¹⁴ Ron Johnston and Peter J. Taylor, *Geography of Elections*. London: Taylor and Francis Group, 2014; David Reynolds, 'Whither Electoral Geography? A Critique,' in *Developments in electoral geography*. Ron Johnston, Fred M. Shelley & Peter J. Taylor (eds), London: Routledge, 2015, pp. 22-38, Ben Reid and Gang-Jun Liu, 'One Nation and the Heartland's Cleavage: An Exploratory Spatial Data Analysis,' in Bligh Grant, Tod Moore & Tony Lynch (eds), *The Rise of Right-Populism: Pauline Hanson's One Nation and Australian politics*. Singapore: Springer, 2019, pp. 79-102.

¹⁵ Victorian Electoral Commission, 'State Election Results.' Accessed at:<<https://www.vec.vic.gov.au/results/state-election-results>>.

¹⁶ Australian Electoral Commission, 'Election Results: Tally room archive'. Accessed at: <<https://results.aec.gov.au/>>.

record joining.¹⁷ Conversely, the VEC offers a mix of materials and requires conducting analysis and joins using strings, providing many challenges and opening the door to errors and miscalculations.

Second, the UWA electoral data archive was adequate for obtaining summaries of overall seat data and votes by party. However, the resource does not provide electorate-level data, let alone polling place results.¹⁸

Third, there is a thorough electronic collection of electorate-level data for the Victorian Legislative Assembly and Legislative Council. However, it is a private collection compiled by psephologist Adam Carr and poses two problems: accuracy and presentation.¹⁹ In terms of accuracy, Carr acknowledges that his 'archive doubtless contains many errors, some derived from the original sources, some of my own making.'²⁰ His data is based on transcriptions from summary sources, most notably compilation volumes of election data.²¹ Regarding presentation, the data is also only available in textual rather than tabular form. The tables within the text are formatted manually rather than as exportable comma-separated files.

Because of these challenging features of the data set, accessing and analysing the data required a range of tools. The base Python application enabled retrieving each page of Carr's data and downloading the data as text files. Then, extensive regular expression (regex) code sorted the data into a large data set and table for the years between 1846 and 2018.²² The analysis and obtaining of additional data used R as its primary platform with substantial reliance on the Rvest package and the Tidyverse "ecosystem".²³ The challenge was accurately parsing the data from summary table form into the 'long'

¹⁷ See Ben Raue, 'Data repository'. Accessed at: <<https://www.tallyroom.com.au/>>.

¹⁸ University of Western Australia. 'List of all General Election results for the Legislative Assembly in Victoria.' Accessed at: <<https://elections.uwa.edu.au/listelections.lasso?ElectionType=1&State=VIC>>.

¹⁹ Adam Carr, 'Psephos - Adam Carr's Election Archive.' Accessed at: <<http://psephos.adam-carr.net/>>.

²⁰ Carr, 'Psephos'.

²¹ Such as Colin A Hughes and B D Graham, *Voting for the Victoria Legislative Assembly 1890-1964*. Canberra: ANU Press, 1975.

²² Ruslan Mitkov, *The Oxford Handbook of Computational Linguistics*. Oxford: Oxford University Press, 2006, p.754.

²³ RStudio, 'Tidyverse.' Accessed at: <<https://www.tidyverse.org/>>, Hadley Wickham, 'rvest: Easily Harvest (Scrape) Web Pages' Accessed at: <<https://cran.r-project.org/web/packages/rvest/>>.

format needed for analysis and visualisation—additional challenges required judgement on grouping and recoding values into consistent party name affiliations.

Much of the combining of data, initial exploratory data analysis and generation of summary statistics also utilised R Tidyverse. There was also much overlap between these steps and initial visualisations. R `ggplot2` enabled readily and rapidly produced visualisations of both votes received and seats obtained. It was possible to develop working hypotheses on the historical stages of Victoria's voting system and election history between 1890 and the present. These visualisations and historical textual data references constituted the other backbone of the analysis.²⁴

Both the VEC and the Victorian Parliamentary Library had produced existing digitised ESRI shapefiles that formed the basis of the comprehensive mapping of data, especially for more recent years. These entailed using a combination of the ESRI ArcGIS Pro 3.1.3 and R `sf`.²⁵ As well as standard choropleth maps - which use differences in colouring within predefined areas to indicate the values of a particular quantity - the construction of cartographic hexagrams allowed for a more helpful account of the changing character of seats across time. As Langton and Solymosi explain,

*even the most well-intentioned cartographer may introduce misrepresentation by mapping irregularly shaped and sized areas... different methods of visualising area-based data can remedy (or exacerbate) this misrepresentation.*²⁶

Cartographic hexagrams are one approach, with their main advantage being that identically sized shapes represent each electoral district.

The final challenge was deploying these visualisations via the *R Plotly* and *htmlwidget* packages.²⁷ *Plotly* and *ggplotly* allowed for building dynamic interaction into the

²⁴ Most notably, Wright, A People's Counsel.

²⁵ Edzer Pebesma, 'Simple Features for R.' Accessed at: <<https://r-spatial.github.io/sf/>>.

²⁶ Samuel H. Langton and Reka Solymosi, 'Cartograms, Hexograms and Regular grids: Minimising misrepresentation in spatial data visualisations.' *Environment and Planning B*, 48, 2019, pp. 348-357.

²⁷ Plotly Technologies Inc, 'Plotly R Open-Source Graphing Library.' Accessed at: <<https://plotly.com/r/>>, Ramnath Vaidyanathan, Kenton Russell, and RStudio, Inc. 'htmlwidgets for R.' Accessed at: <<https://www.htmlwidgets.org/>>.

diagrams and figures. Their conversion into HTML widgets enabled their deployment via a 'blob' interface in the Victorian Parliamentary Library's intranet. Unfortunately, these could not yet be directly deployed to the website via an HTML document version of the final paper. Instead, the visualisations remained embedded as links in the paper's PDF version, allowing an online reader to access them by clicking them.

As outlined above, the Carr and VEC data combination created a large table of district-level primary votes for both houses from 1846-2018. It is accessible via the original paper or through the notes.²⁸ Although some errors in the data across earlier years still need to be corrected, it provided the foundations for analysis. It is also available to other researchers looking for detailed results at the district level. It is downloadable as an Excel workbook or CSV file.²⁹

A *LONGUE DURÉE* VIEW OF VICTORIA'S ELECTORAL AND PARTY SYSTEMS

This section of the article summarises the information presented in the original paper.³⁰ The data table and additional sources constituted the basis for the two main 'workhorse' visualisations of the votes and seats obtained by each candidate and party (Figures 1 and 2) for the Legislative Assembly. The stacked bar graph demonstrates changes between 1890 and 2018. The cut-off year 1890 was chosen as it corresponds with the Australian Labor Party's emergence and the beginning of the state's party system. Still, until the second half of the 1900s, many candidates were categorised as 'pre-party'.

The election result data for seats and candidates required some amalgamation of parties into categories. While Labor remained a constant throughout the period visualised, the centre-right parties were amalgamated into a single category, 'Liberal'. Figure 2 illustrates the proportions of seats held by each party. In both cases, the online tools allow the reader to focus on years and periods. Similar data is presented for the

²⁸ Ben Reid and Caleb Triscari, 'Raw Data on Legislative Assembly Results.' Accessed at: <<https://povresearch.blob.core.windows.net/2022/Election%20history/tab3.html>>.

²⁹ A more user-friendly dashboard is available at Ben Reid and Caleb Triscari, 'Legislative Assembly Results, Victoria, 1890-2018' Accessed at: <<https://app.powerbi.com/view?r=eyJrIjojNTAwNzVjMGMtNzNkYS00Y2QzLTg5YjQtN2Y4ZGNmYzY2OTg3liwidCI6IjgyMWFmMGVjLTMxNDAtNDEzNy1hZjBILTY2OTAyODZmYjY3MjYj9j9>>.

³⁰ Reid and Triscari, 'Visualising'.

Legislative Council. However, party affiliation did not figure prominently in the Upper House until the 1940s and, more notably, after the abolition of the restricted franchise in 1950.

The *longue durée* presentation of data in the initial figures formed the basis for the paper analysis. It developed a historical periodisation similar to elsewhere without reference to other sources.³¹ The first predates the data in the figures and constitutes a foundational or pre-party era commencing with separation from New South Wales in 1851. Victoria's origins as a settler colony allowed for the development of 'responsible government'.³² Although no formal exclusion of the Indigenous population existed, in practice, the colony's representative institutions primarily reflected the will of the (predominantly male) European settler populations. The bicameral representative system emerged after 1856, with property qualifications for voting in the Assembly abolished in 1857.³³

However, there was some controversy over the characterisation of the subsequent periods. The long reform period between the 1890s and the early 1950s entailed significant changes. These included:

- The abolition of separate representation for public servants and rail employees.
- Women obtained the right to vote through An Act to provide for Adult Suffrage of 1909.
- Preferential voting was introduced in the Legislative Assembly in 1911.
- Voting in the Legislative Assembly became compulsory in 1923.
- Women became eligible to stand for the Victorian Parliament in 1923.³⁴

³¹ Victorian Electoral Commission, 'History of Elections in Victoria'. Accessed at: <<https://www.vec.vic.gov.au/voting/learn-to-vote/history-of-elections-in-victoria>>.

³² Wright, *A People's Counsel*, p.17.

³³ John Waugh, 'The Old Guard, 1855-1863', in Paul Strangio and Brian J. Costa (eds), *The Victorian Premiers, 1856-2006*. Sydney: Federation Press, 2006, pp. 12–29; Paul Strangio, 'Broken Heads and Flaming Houses: Graham Berry, the wild colonial', in Strangio and Costar (eds), *The Victorian Premiers*, pp. 51–74.

³⁴ Reid and Triscari, *Visualising*, pp. 9-11

The reform period had at least two distinct eras. The first of these commenced with the emergence of the Labor Party in the 1890s. The party's proportional vote and number of seats expanded consistently until the 1914-18 war (See Figures 1 and 2). One consequence was the cohering of a unified party of the centre-right in opposition to Labor. The 'fusion Liberals' emerged as a unified force after overcoming the divisions between protectionists and free traders.³⁵ However, the momentum surrounding Labor's rise had already begun to dissipate from its high point in 1911 by 1914. Labor's split over the war and conscription resulted in a contraction of Labor's vote between 1917 and 1920, from which it did not recover until between 1921 and 1927 (See Figures 1 and 2).³⁶

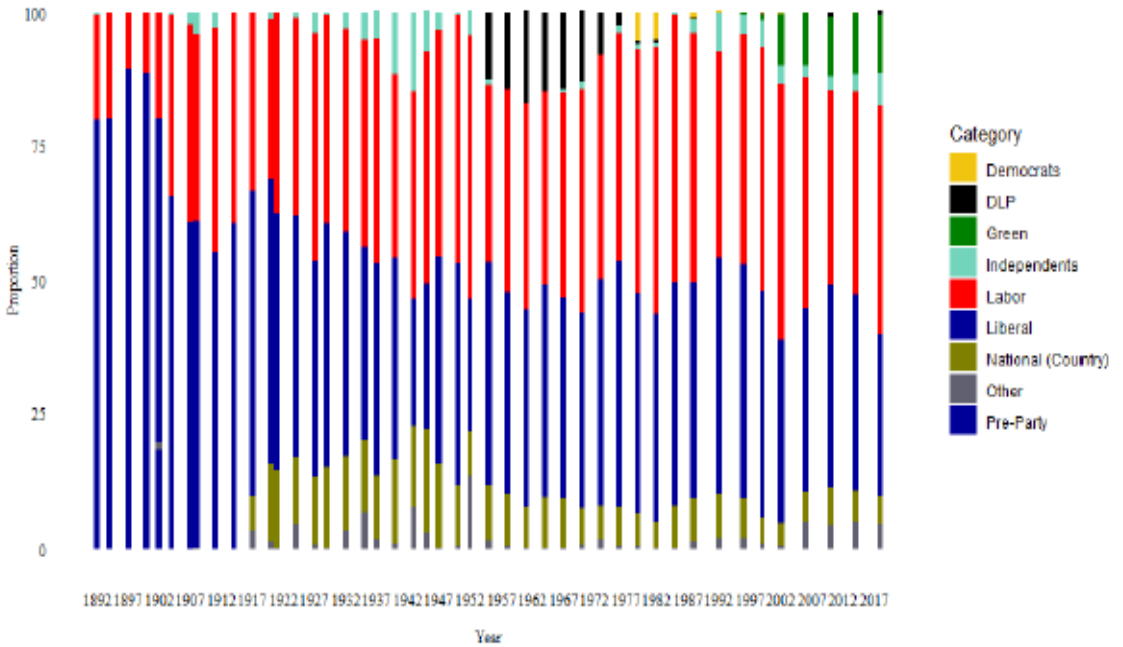
These fluctuations in Labor support corresponded with the era's second main facet, the emergence of the Country Party (CP). Originating as a faction within the Liberals, the Victorian Farmers Union (CP after 1920) ran its first candidates in 1917. Although its vote subsequently fluctuated between 14 and 20 per cent of the electorate, electoral malapportionment helped it to obtain a disproportionately large proportion of seats (between 20 and over 37 per cent at its high point in 1943).³⁷ Of course, its status as a singular party often did not exist in practice, with at least two significant splits.

³⁵ Charles Richardson, 'Fusion, the party system we had to have?' *Policy: A Journal of Public Policy and Ideas*, 25(1) 2009, pp. 13-19.

³⁶ Department of Veterans' Affairs, 'Conscription: Great Debates - Anzac Portal, Conscription: Great Debates.' Access at: <<https://anzacportal.dva.gov.au/resources/conscription-great-debates>>.

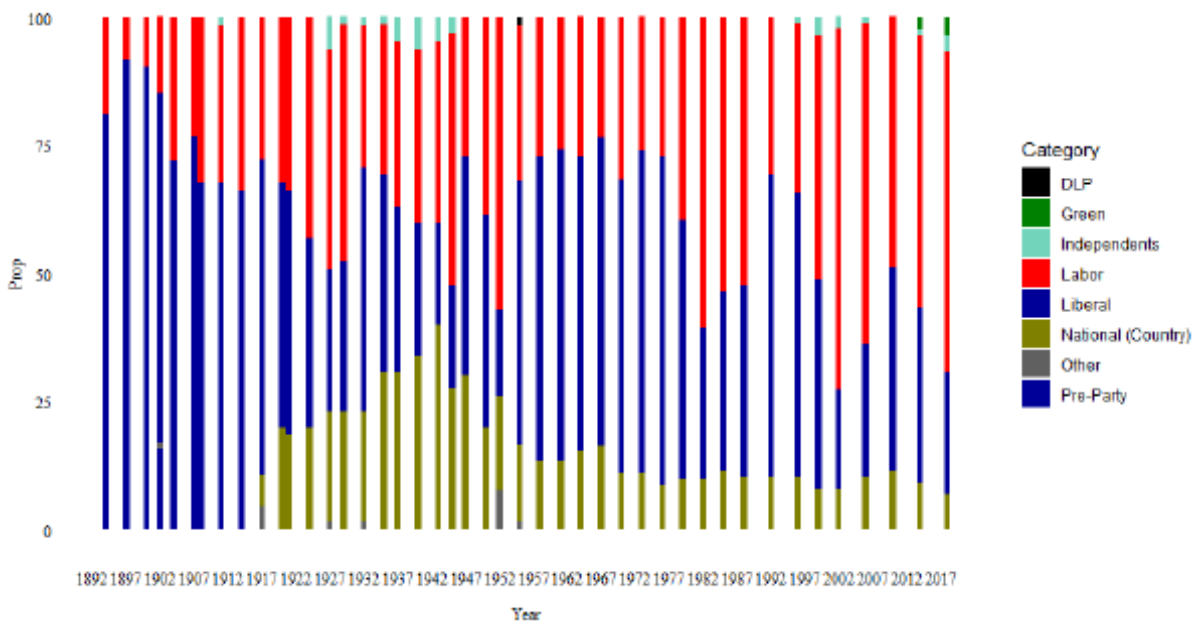
³⁷ Antony Lamb, *On Measures and Men: the Victorian Country Party, 1917 to 1945*. PhD Thesis, Swinburne University of Technology, 2009; Ben Reid, *Historical Malapportionment and Victoria's Legislative Assembly*. Parliamentary Library & Information Service, Parliament of Victoria, 2023.

Figure 2. Proportion of Legislative Assembly Vote by Party Category³⁸



³⁸ Carr, 'Psephos'; UWA, 'List of all General Election results'. See also <[https://povresearch.blob.core.windows.net/2022/Election history/fig1.html](https://povresearch.blob.core.windows.net/2022/Election%20history/fig1.html)>.

Figure 3. Proportion of Legislative Assembly Seats by Party Category³⁹



Tensions over the extent of malapportionment eventually led to divisions and splits within the CP and the United Australia Party/ Liberals. The Liberals' relationship with the CP was turbulent. They adopted the title Liberal and Country Party in 1948 to appeal to disillusioned former CP voters and MPs. The conflict eventually led to the Liberals adopting a 'two for one' electoral reform proposal in 1950. A split in the Liberal caucus resulted in a short-lived government led by Thomas Hollway, who founded the break-away Electoral Reform League.⁴⁰ The subsequent election resulted in the first Labor government with a majority of seats in the Legislative Assembly between 1952 and 1955.

In the meantime, legislation ending restrictions on the Legislative Council franchise was finally adopted in 1950.⁴¹ The restricted franchise and slower adoption of party affiliation mean it is harder to assess the main trends in the vote distribution. There

³⁹ Carr, 'Psephos'; UWA, 'List of all General Election results'. See also <[https://povresearch.blob.core.windows.net/2022/Election history/fig2.html](https://povresearch.blob.core.windows.net/2022/Election%20history/fig2.html)>.

⁴⁰ Reid and Triscari, *Visualising*, p. 11.

⁴¹ Reid, *Historical malapportionment*, p. 6.

were also recurrent high levels of malapportionment between provinces, with the smallest having just 13.7 per cent of voters compared to the largest in 1972.⁴² Figures 3 and 4 outline the seat and vote distribution. Labor's share of the vote and seats remained low until after 1950, with non-party, Liberal and Country Party members having the most Members. Even in 1952, Labor fell short of winning a majority in the chamber. Labor's low representation, moreover, persisted across the next historical era.

A third era of gradual change ensued between 1955 and 1982.⁴³ Figures 1 and 2 suggest three main trends characterised the period. First, the Liberals governed the state across the entirety of these years. Although their primary vote share averaged below 40 per cent for most of these years, they obtained over 50 per cent of Legislative Assembly seats. Second, Labor's 'great split' profoundly impacted Victoria with the emergence of the Democratic Labour Party.⁴⁴ Although it never won any seats, it consistently secured 12-15 per cent support during the 1950s and 1960s. The ALP's support, on the other hand, fell below 40 per cent during these years. Third, each Premier's time in office expanded considerably with just three different leaders (Henry Bolte, Rupert Hamer and Lindsay Thompson) during these years.⁴⁵

Having proposed and abandoned a commitment to substantive electoral reform between 1950 and 1955, the Liberal-led governments not surprisingly undertook few changes. A partial exception was the synchronisation of Legislative Council elections with those for the Lower House after 1961. They also increased the number of districts in 1965 and 1973 in line with population growth in the state.

Finally, a fourth era commenced in the early 1980s. Labor returned to office in 1982 and subsequently governed during all but 12 of the following 40 years.⁴⁶ The greater data availability and anticipated greater interest in the more recent era allowed for

⁴² Carr, Psephos.

⁴³ Reid and Triscari, *Visualising*, pp. 11-12.

⁴⁴ Paul Strangio, 'The Split: A Victorian Phenomenon'. in Brian J. Costar, Peter Love and Paul Strangio (eds) *The Great Labor Schism: A retrospective*. Carlton North: Scribe, 2005, pp. 23-45; Wright, *A People's Counsel*, p 192.

⁴⁵ Parliament of Victoria, 'People who shaped Parliament.' Accessed at: <<https://www.parliament.vic.gov.au/about/history-and-heritage/people-who-shaped-parliament/>>.

⁴⁶ Reid and Triscari, *Visualising*, pp. 13-18.

more detailed visualisation and analysis. There were also substantive reforms to the electoral system and both houses.⁴⁷

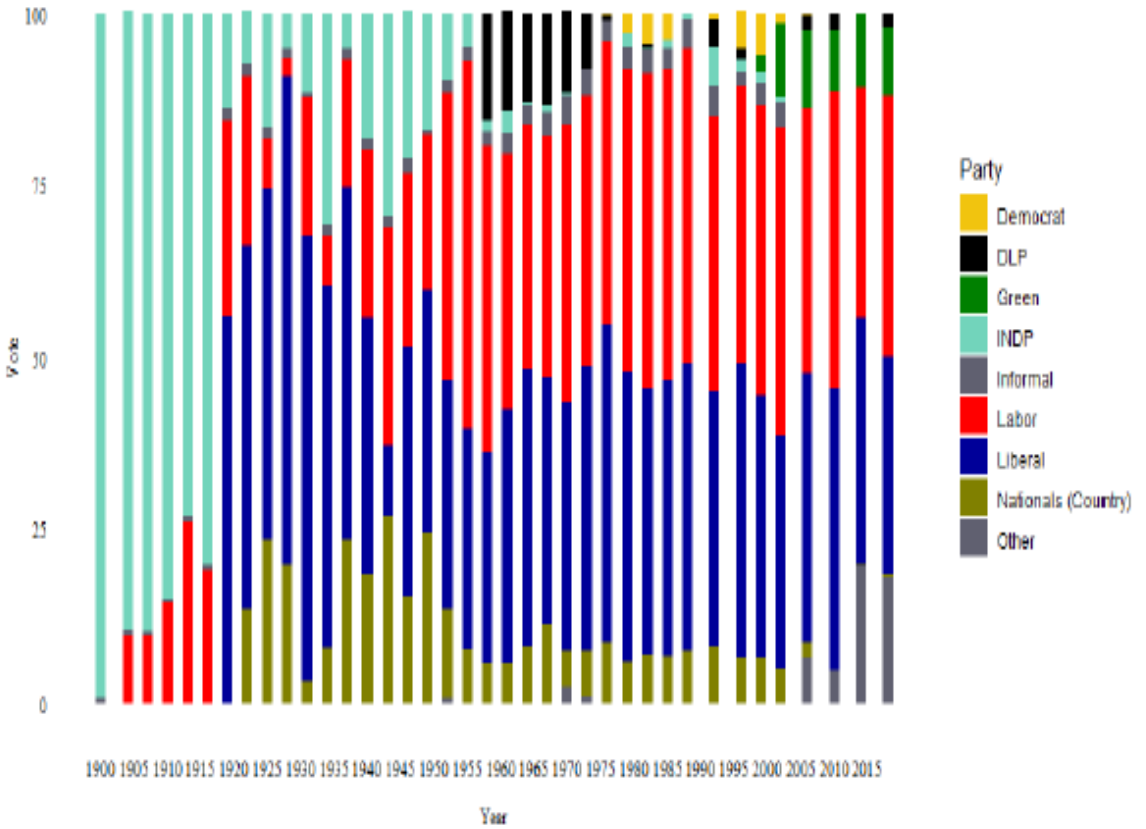
The analysis deployed a range of visualisation and maps, allowing for a more in-depth representation of the electoral changes over time. As is often the case, the significant disparity between urban and regional seats tends to under-represent the degree of change.

As outlined above, the advantage of cartograms in figures 5 to 9 is that they symbolise each electorate. The downside is that while it is possible to preserve some aspects of the underlying geospatial features, the location of polygons can inevitably deviate from where a logical representation would otherwise be. For example, a seat in Melbourne's West, like Sunshine in 1982, appears near the South Australian border.

Labor's results in 1982 and 1992 are the first notable contrast. The predominance of red in the former captures the scale of its election win. Figures 1, 2 and 5 suggest that its 50 per cent of the primary vote allowed it to secure over 60 per cent of seats in the Legislative Assembly. While both its hold of seats and vote share declined over the next two elections, an opposite predominance of blue is evident in 1992 (Figure 6). Labor was, moreover, only able to obtain a majority in the Legislative Council temporarily in 1985 (see Figure 4). The problems and setbacks of the Cain and Kirner governments led to a revival of the Liberals' fortunes, allowing them to govern between 1992 and 1999. Labor's primary vote contracted to 38 per cent in 1992. Liberal and Nationals also increased their representation in the Legislative Council in 1996.

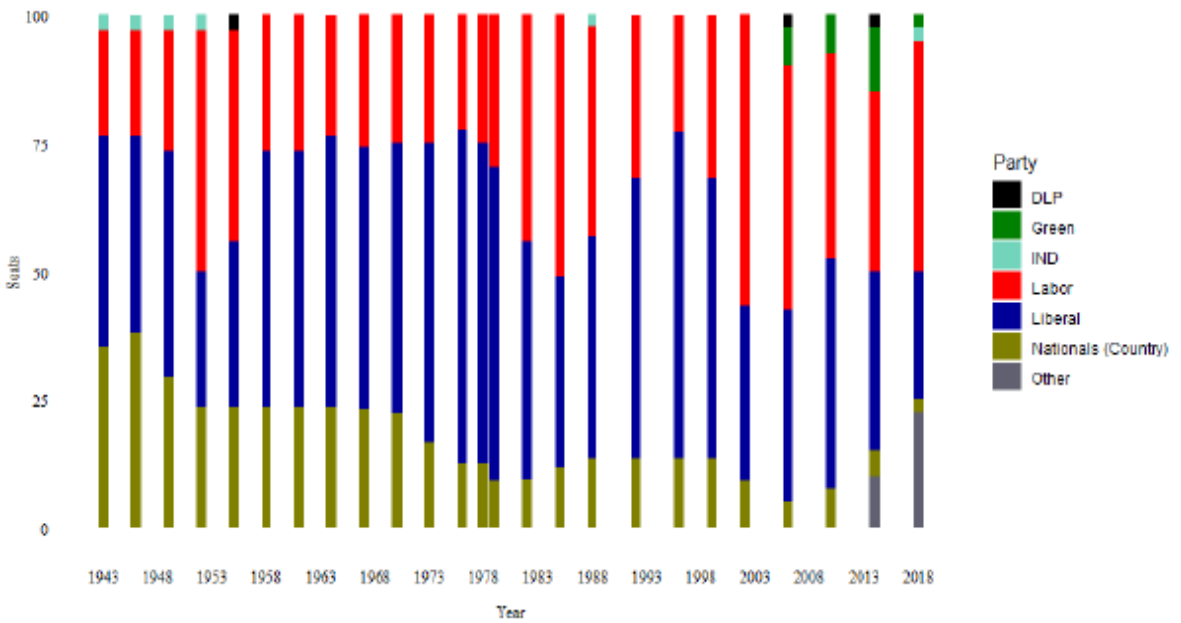
⁴⁷ Wright, *A People's Tribune*, pp. 221-224.

Figure 4. Proportion of Legislative Council Votes by Party Category⁴⁸



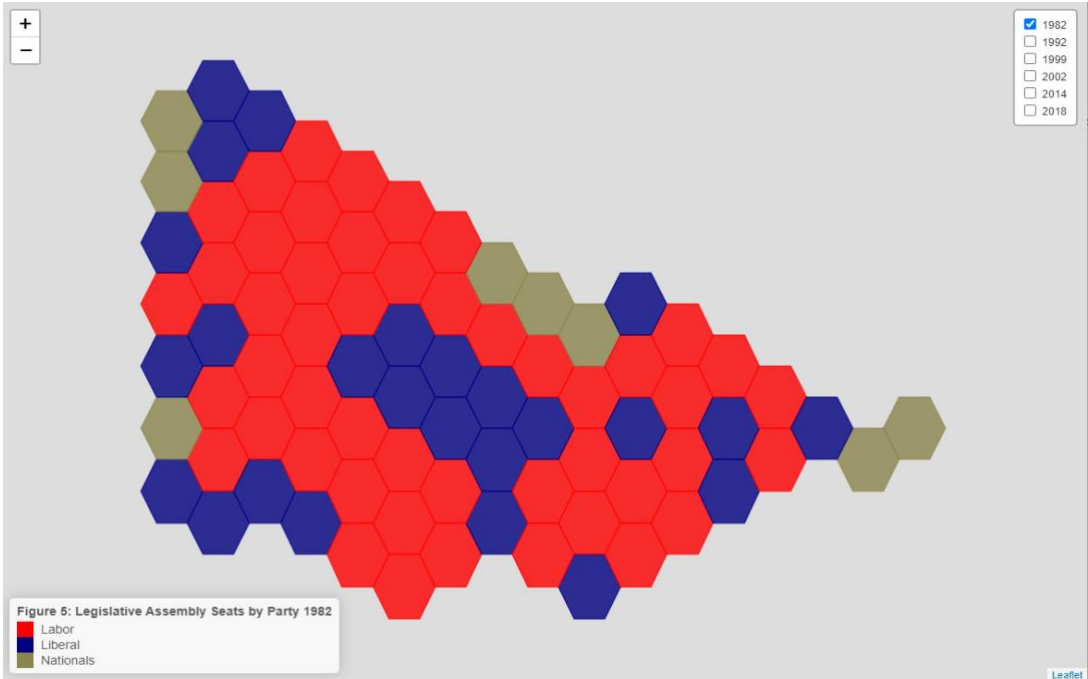
⁴⁸ Reid and Triscari, *Visualising*, pp. 11-12. See also <https://povresearch.blob.core.windows.net/2022/Election%20history/fig3.html>.

Figure 5. Proportion of Legislative Council Seats by Party Category⁴⁹



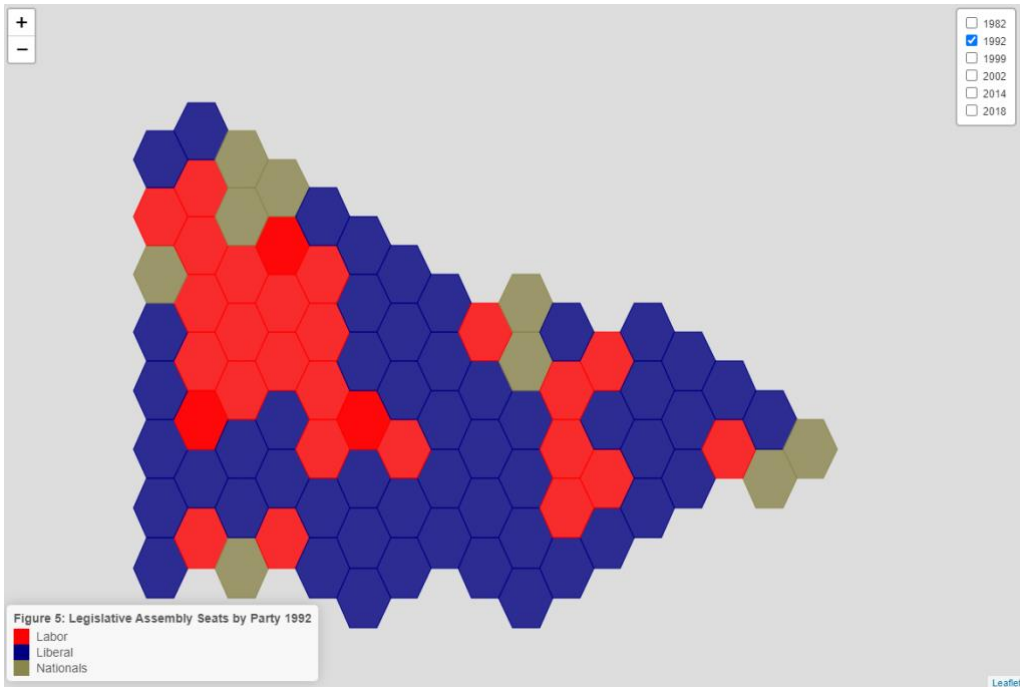
⁴⁹ Reid and Triscari, *Visualising*, pp. 7. See also <https://povresearch.blob.core.windows.net/2022/Election%20history/fig4.html>.

Figure 6. Legislative Assembly Results by District, 1982⁵⁰



⁵⁰ Reid and Triscari, *Visualising*, pp. 14. See also <https://povresearch.blob.core.windows.net/2022/Election%20history/fig5.html>.

Figure 7. Legislative Assembly Results by District, 1992⁵¹



The subsequent years illustrate the switch back to Labor's predominance, starting with the close election result in 1999. Labor's primary vote recovered to almost 46, and its two-party preferred vote of 50.2 per cent allowed it to win just short of a majority of seats (Figures 1,2 and 7). It was able to govern with the support of three independent crossbenchers.⁵² The 2002 election, however, resulted in a more decisive win for Labor, with a two-party preferred result of 57.8 per cent and 62 seats in the Legislative Assembly (Figure 8).

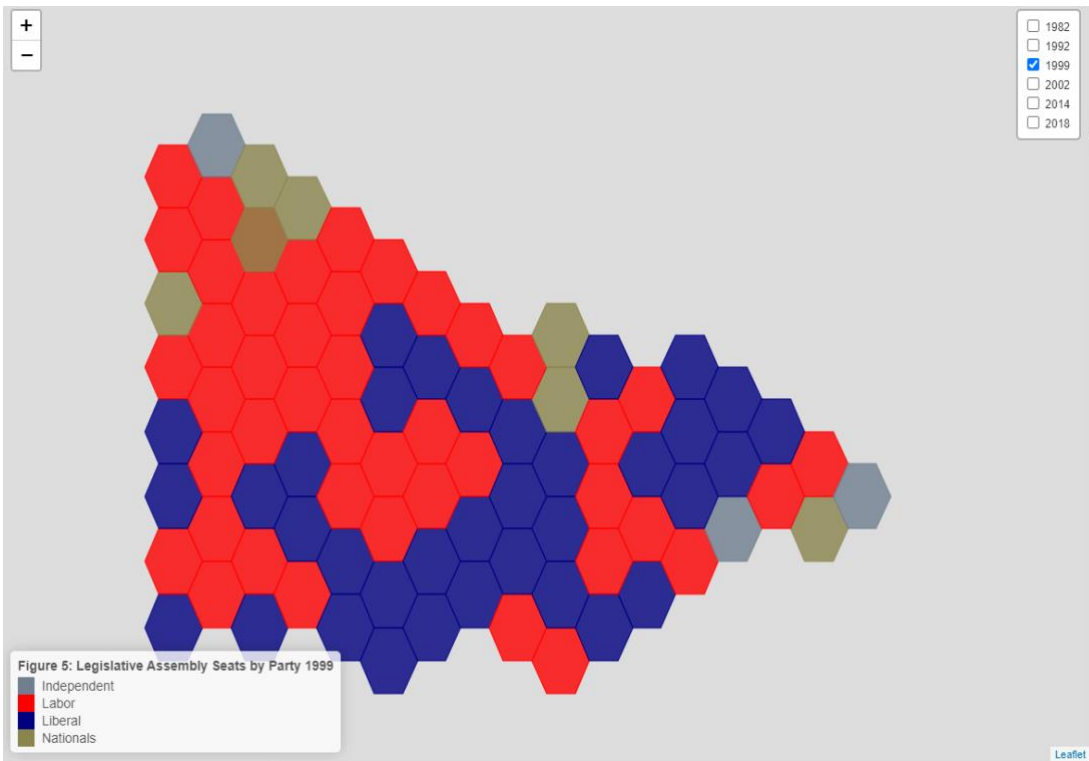
⁵¹ Reid and Triscari, *Visualising*, pp. 14. See also

<<https://povresearch.blob.core.windows.net/2022/Election%20history/fig5.html>>

⁵² Susan Davies, 'Statement in Support of A Minority Labor Government.' Accessed at:

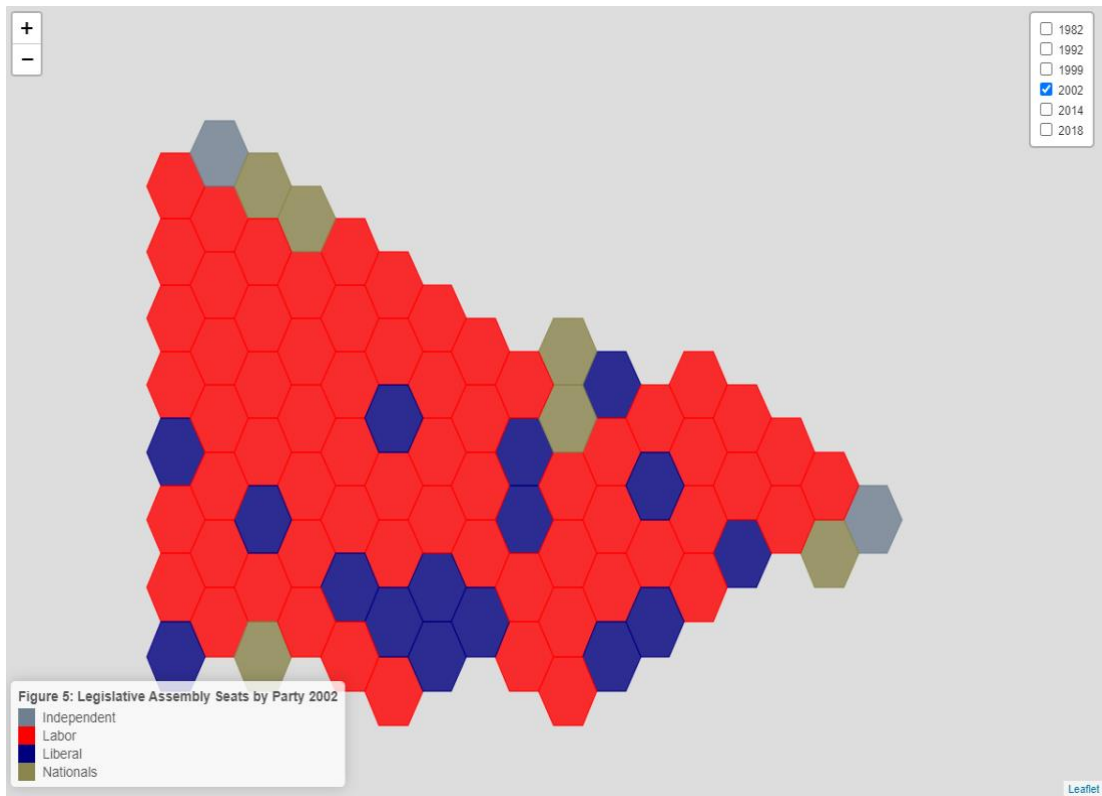
<<https://australianpolitics.com/1999/10/18/susan-davies-statement-on-minority-government.html>>.

Figure 8. Legislative Assembly Results by District, 1999⁵³



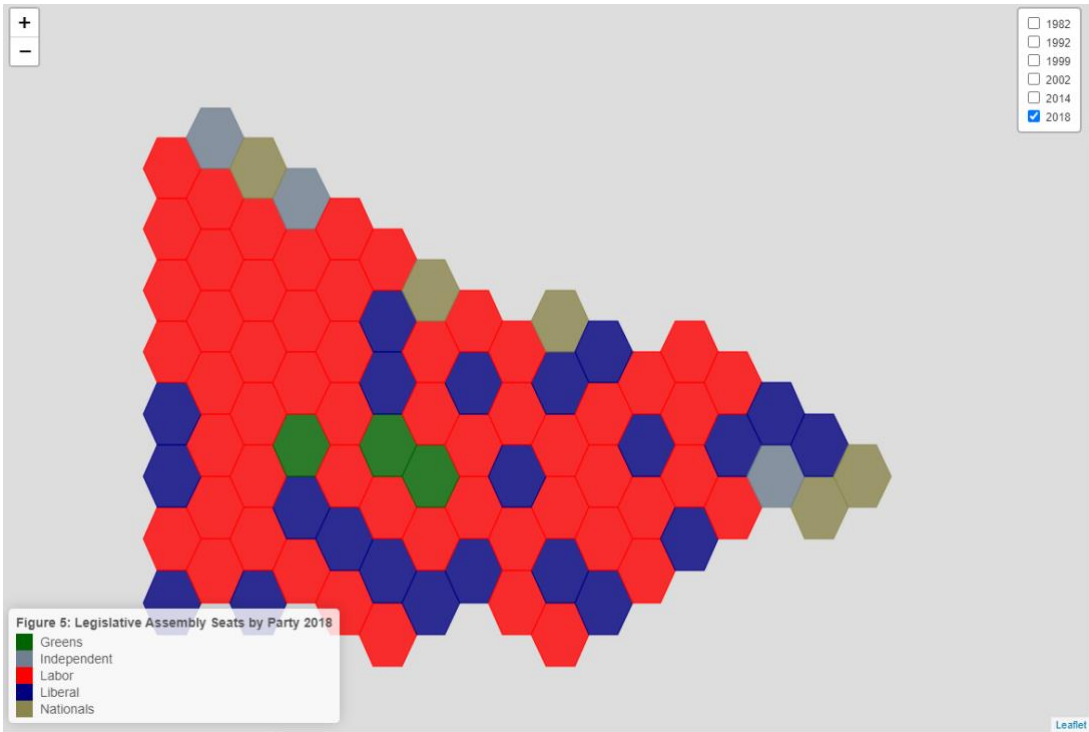
⁵³ Reid and Triscari, *Visualising*, pp. 14. See also <https://povresearch.blob.core.windows.net/2022/Election%20history/fig5.html>.

Figure 9. Legislative Assembly Results by District, 2002⁵⁴



⁵⁴ Reid and Triscari, *Visualising*, pp. 14. See also <https://povresearch.blob.core.windows.net/2022/Election%20history/fig5.html>.

Figure 10. Legislative Assembly Results by District, 2018⁵⁵



Having obtained a decisive majority in the Legislative Council for the first time, Labor was also finally able to enact reforms to the state's Legislative Council, having tried and been rebuffed by the opposition-controlled chamber in the 1980s.⁵⁶ In keeping with an agreement with the crossbench, it established a Constitutional Commission that recommended the introduction of proportional representation and a region-based system. The subsequent legislation passed in 2003 was arguably one of the most

⁵⁵ Reid and Triscari, *Visualising*, pp. 14. See also <https://povresearch.blob.core.windows.net/2022/Election%20history/fig5.html>.

⁵⁶ Nicholas Economou, 'Changing the Rules to Change the House: Electoral Reform and the 2006 Electoral Contest for the Victorian Legislative Council'. *Australian Journal of Political Science* 43(4), 2008, pp. 635–648; Alistair Harkness, 'Restraints upon the agenda: Policy-making in Victoria 1982-1992.' *Australasian Parliamentary Review* 27(1) 2012, pp. 134–149.

significant historical changes to the state's electoral system.⁵⁷ Figures 3 to 4 demonstrate the changes in the upper house's composition. In 1992, the Liberals and Nationals predominated in the chamber. The first election under the new system in 2006 resulted in Labor obtaining more seats than in earlier years. The Greens and Democratic Labour Party also won seats, reflecting the emergence of a crossbench.

The years since exhibited similar patterns of representation, except for when the Coalition returned to government between 2010 and 2014. Labor again returned to office in 2014 before increasing and holding on to its share of seats in 2018 and 2022. Although its representation declined in the Legislative Council, a substantial crossbench emerged.

LIMITATIONS AND FUTURE DIRECTIONS

While this project offers valuable new insights into the contested histories of electoral competition and political institutions in Victoria, there are limits to the above analysis, and these pose questions about the future of electoral, historical, and broader social science research in Australia. While data-based techniques provide avenues for different research approaches, there are still limits on available data sets.

As noted above, obtaining accurate data on Victoria's electoral history was challenging and could be even more so with other states. The UWA archive, as well as falling into disrepair, only provides summary data for each election.⁵⁸ Carr's presentation of the data in textual form also poses challenges. Even the most thorough use of regex code to extract numerical values from district and province details often contains errors and omissions. Minor inaccuracies also exist in the visualisations and data used in the original publication. The lowest resolution of results is district or province scale when polling place-level data exists for much of the period.

The further conversion of analogue data into accessible databases for further research and analysis would enable further research. The Victorian Parliamentary Library, for example, has bound and scanned editions of statistics relating to various Legislative

⁵⁷ Constitution Commission of Victoria, *A House for Our Future: A report*, Constitution Commission Victoria, 2002; Government of Victoria, Constitution (Parliamentary Reform) Act 2003.

⁵⁸ UWA, List of all General Election results.

Council and Assembly elections from 1924 onwards.⁵⁹ Similar holdings no doubt exist in other states and nationally. Scans of these documents would ideally use high quality Optical Character Recognition processes. The data contains booth-level results that can be aggregated to district, province, and region levels. At the very least, it would be good to have state district and Commonwealth division-level results that are quality-assured and available as electronic datasets.

Comparable data collections exist in other countries and spheres. The United States maintains extensive data dating back to 1823 at the County level.⁶⁰ In Australia, similar projects are proceeding in fields like law. An Australian Research Council Linkage Infrastructure, Equipment and Facilities program funded the 'Digitising the Drafting of the Australian Constitution.' Its stated outcome is to 'provide an accessible means to decipher the proposals, drafts and votes by which the Constitution was formed. The project's expected outcomes are an open access, online archive that consolidates, corrects, and enhances the digital record of the Constitutional Conventions and the associated processes'.⁶¹ A similar combination of interests – parliaments, universities and perhaps electoral authorities – could pursue a similar project. The goal would be an easily accessible data set and associated documents.

When combined with other data sets, fine-grained electoral statistics at the booth level could also generate more research. It would allow for a more detailed analysis of changes in electoral behaviour and its relationship to social, economic, and political processes. For instance, combining census collector district data with booth results could generate more profound insights into the 'social cleavages' underpinning voter

⁵⁹ Parliament of Victoria, *Legislative Assembly, Qualifications, disqualifications and enrolment of electors, postal voting, statistics: relating to the general election 1924-1936*, prepared by the Chief Electoral Officer for the State of Victoria, 2002; Parliament of Victoria, Legislative Assembly, *Statistics relating to the general election held on 1937-1985: together with summary of provisions relating to qualifications and enrolment of electors, postal voting, absent voting, unenrolled voting* prepared by the Chief Electoral Officer for the State of Victoria, Victoria, 2002.

⁶⁰ Inter-university Consortium for Political and Social Research, *United States Historical Election Returns, 1824-1968, 1999*.

⁶¹ Australian Research Council, LE230100159 — The University of Western Australia, <<https://dataportal.arc.gov.au/NCGP/Web/Grant/Grant/LE230100159>>.

preferences and the impacts of shorter-run economic and social changes.⁶² Both existing and future research can deepen understanding of electoral processes and history in Australia through a fresh lens of digitised data. The outcomes would be an enhanced understanding of electoral processes and administration and the social and geospatial trends associated with the historical evolution of election results.

DIGITISING ELECTORAL HISTORY

Parliamentary institutions face many challenges, with the need to engage and educate the public becoming an increasing priority.⁶³ One avenue to accomplish such goals is through original research and providing information and publications that engage with data. These methods can generate knowledge of and interest in historical and contemporary electoral systems.

Currently, materials available in Australia are patchy and vary in quality and depth. These often understandably focus on national-scale processes while neglecting the diverse experiences of different states and jurisdictions. One way state-based Parliaments and associated researchers can contribute to filling this void is through producing good quality and engaging materials using data analysis and visualisation-based approaches.

The Victorian Parliamentary Library produced material working with these approaches in the lead-up to the December 2022 election. It used data from the web and official sources to provide an overview of the history of electoral contests in the state. Using a range of data analysis tools and visualisation and geo-visualisation packages in R and Python, it presented an overview history with various illustrations of election results over time.

The opportunities presented by data analysis and visualisation-based approaches pose two further questions. On the one hand, more opportunities exist for research into and education about the evolution of Australia's political and electoral processes. There is

⁶² Sergio Fabbrini, 'Cleavages: Political', in Neil J. Smelser, Paul B. Baltes (eds), *International Encyclopedia of the Social and Behavioural Sciences*. 2001, pp. 1987-1990, Accessed at: <<https://www.sciencedirect.com/science/article/abs/pii/B0080430767011098>>.

⁶³ Leston-Bandeira, 'How public engagement has become a must' pp. 8-16; Lomp, 'Taking community engagement,' pp. 26-29.

potential to revisit some of the themes and arguments in the existing research using data to provide more rigorous social and geospatial analysis. The same tools can make the material more accessible to audiences and provide scope for more sophisticated computational and statistical analyses. There is more scope for national, state-based, and local electoral studies.

On the other hand, a lack of good quality data with more details on electoral results in Victoria and nationally (the most recent years notwithstanding) has outstripped the availability of computational tools and applications. There is some good summary data available electronically, although its management is falling into disrepair in some cases. More detailed information remains analogue or in collections, such as Adam Carr's. Given initiatives in other fields, there is potential for a combination of institutions to commit to a more systematic digitisation of electoral results records for various jurisdictions in Australia. The experiences and know-how would also potentially be transferable to other national contexts.

Planting the seed: The Importance of Parliamentary Procedure Education for Members of Parliament and the Opportunity to Inspire During Induction Processes

Ramona Long

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Abstract: Members of parliament are elected from the community and do not necessarily enter parliament with an understanding of the legislative process or parliamentary law and procedure. There is no requirement for members of parliament to be qualified in parliamentary procedure nor to attend courses or training sessions on these topics; to do so is of the members' own motivation and initiative. This article examines the role of a member through three categories: representative, political and parliamentary, and argues that the parliamentary role is not given equal attention as the other two. The Northern Territory Legislative Assembly is used as a case study, and other illustrations are drawn from the federal and Western Australia jurisdictions. As members are not employees, parliamentary departments and Clerks have limited power in influencing a member's engagement with parliamentary education. Recognising these limitations, this article ultimately encourages the importance of inspiring members to engage with, learn and seek further education in parliamentary procedure and that the parliamentary role is more integral to the representative and political roles than first assumed. It is identified that the induction process of a new parliament is an opportune time to sell this message.

¹ On secondment from the Department of the Legislative Assembly of the Northern Territory, Procedural Support Manager.

INTRODUCTION

Coghill,² Lewis,³ and Steinack,⁴ among other notable researchers have analysed the training members of parliament ('MPs') receive for their unique role, which does not come with a clear job description and has many barriers to effective prioritisation of education.⁵ Current literature focuses on training of an MP's whole role. This article explores the attention given to MPs' training, understanding, and engagement with parliamentary procedure and its role on the Chamber floor of lower Houses or unicameral parliaments. The rules of debate are complex and are not easy to pick-up *correctly* through exposure alone, despite some believing it may be.⁶ Therefore, it is important we consider how MPs are taught parliamentary procedure and what priority they give it compared to their representative and political roles. To help explore current approaches to integrating parliamentary procedure into induction programs for MPs in Australia, a case study approach will be adopted with the Legislative Assembly of the Northern Territory forming the focus of this article. Ultimately, this article contends that whilst there are ample opportunities for MPs to improve their procedural knowledge, parliamentary departments can help build incentive for MPs to do so by emphasising the importance of parliamentary procedure during induction programs.

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⁴ Katrin Steinack, Melbourne Law School, The University of Melbourne, Parkville, Victoria, Australia.

⁵ Colleen Lewis, 'Barriers to Prioritising Education and Training for Parliamentarians: Role Complexity and the Media'. *Parliamentary Affairs* 65(3) 2012, pp. 699–714.

⁶ Katrin Steinack, 'Between Apathy and Enthusiasm: An International Comparison of MPs' Attitudes Towards Parliamentary Training'. *Parliamentary Affairs* 65(3) 2012, pp. 547–548; Colleen Lewis, 'Why are Professional Development Standards for New and Returning Federal MPs so Inadequate?'. Accessed at: <<https://theconversation.com/why-are-professional-development-standards-for-new-and-returning-federal-mps-so-inadequate-62956>>.

MEMBERS' ROLES

This article will categorise an MP's role into three sections and examine the emphasis they place on each. MPs have a unique occupation that is constitutionally founded and multifaceted in practice and purpose. Their jobs, and how they execute them, can be broken down into different categories to conceptualise their reality. For example, Wright⁷ prescribes MPs with six personality types: lickspittles, loyalists, localists, legislators, loners and/or loose cannons. Müller⁸ suggests a binary grouping of MPs based on utility function as either a 'populist' or a 'policy success-seeker'. MPs can also be simply grouped as legislator, scrutiniser, and representative.⁹ As other authors have categorised and grouped MP roles, this article will discuss MPs in relation to their representative, political and parliamentary roles.

- **Representative role:** MPs are elected as a representative for a community of people, which is the cornerstone of democratic society. Being a good representative is important for an MPs' re-election, public image, and success. It is not uncommon for the representative identity to be the top-ranking priority.¹⁰ Steinack's article supports that MPs highly value their representative role and can be resistant to training for fear of it impacting their representative duties.¹¹
- **Political role:** 'MPs are essentially party animals and enter the House with a natural tendency to support their party'.¹² Even MPs' votes on bills and motions can be more aligned with their party than their personal or electoral interests. For example, the Labor party immediately removes MPs from the party for

⁷ Tony Wright, 'What are MPs for?'. *The Political Quarterly* 81(3) 2010.

⁸ Markus Müller, 'Motivation of Politicians and Long-term Policies'. *Public Choice* 132(3/4) 2007, p. 274.

⁹ Lewis, 'Why are Professional Development Standards for New and Returning Federal MPs so Inadequate?'

¹⁰ Wright, 'What are MPs for?', p. 302; Ken Coghill, Colleen Lewis and Katrin Steinack, 'How Should Elected Members Learn Parliamentary Skills: An Overview'. *Parliamentary Affairs* 65(3) 2012, p. 510.

¹¹ Steinack, 'Between Apathy and Enthusiasm', pp.548–550.

¹² Phillip Norton, 'Learning the Ropes: Training MPs in the United Kingdom', in Colleen Lewis and Ken Coghill (eds), *Parliamentarians' Professional Development: The Need for Reform*. Cham: Springer International Publishing, 2016, p. 188.

crossing the floor.¹³ Ultimately, MPs have interest and incentive in protecting their political identity.

- **Parliamentary role:** MPs are elected to participate in parliament on behalf of their constituents. Official parliamentary duties include learning and applying parliamentary procedure; participating in robust debate; passing legislation; working in committees and undertaking inquiries; scrutinising legislation and government, or the opposing party; and upholding Westminster traditions. The scope of this article will consider Chamber procedure only.

However, these categorisations are not exclusive of each other. The duties of an MP are not isolated tasks and the representative, political and parliamentary responsibilities occur concurrently. There is clear overlap between the representative and political roles. MPs advertise themselves based on their political party, values, community agenda and policy positions and this is (theoretically) why a constituent votes for their MP. Therefore, for an MP to act in the interests of their political role can mean they are likely acting in the best interests of the majority of their constituents. Naturally, the representative and political roles are intrinsically linked. Political messaging is crafted to appeal to the public and is intertwined with an MP's representative roles and interests. Is there overlap with the parliamentary role too? The NT case study below discusses why parliamentary procedure competes for an MP's attention against the representative and parliamentary roles. However, examples from Western Australia and the Australian House of Representatives, discussed below, demonstrate how parliamentary procedure is much more linked to the representative and political roles of an MP than MPs may realise.

Norton states that:

¹³ Territory Labor, 'Australian Labor Party, Northern Territory Branch, Constitution and Rules (as at May 2023)', 2023, p.15. Accessed at: <<https://www.territorylabor.com.au/media/1273/alp-nt-2023-constitution-rules.pdf>>.

[t]he most significant challenge facing a new MP is not how to adapt to party norms and expectations, but rather gaining an understanding of the services, rules and procedures of the House.¹⁴

This article contends that the parliamentary role is not always given the attention it requires in comparison to the other two. It seeks to explore the parliamentary procedure training options currently available and how to improve MP's parliamentary knowledge and training engagement. The case study of the Legislative Assembly of the Northern Territory will be examined to analyse why this attention imbalance between roles may exist.

CASE STUDY: LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

The Northern Territory Context

Question: What do you get when you have a hairdresser, AFL football player, policeman, veteran, ex-Mayor, financial advisor, CEO, university lecturer, general manager, Aboriginal engagement officer, business owner, four teachers, three councillors, two tradesmen, two lawyers, and three public servants?¹⁵

Answer: A House of parliament!

The Northern Territory (NT) has a small and transient population of approximately 250,219,¹⁶ but a strong sense of community. It has a relatively young parliament,

¹⁴ Norton, 'Learning the Ropes', p. 188.

¹⁵ These professions represent the diverse backgrounds of the members of the 14th Assembly of the Northern Territory (as at January 2024). Territory Labor Members. Accessed at: <<https://territorylabor.com.au/our-team/territory-members/>>; Country Liberal Party Members of the Northern Territory Government. Accessed at: <<https://www.clp.org.au/our-team/>>; Wheeler Centre, 'Ngaree Ah Kit'. Accessed at: <https://www.wheelercentre.com/people/ngaree-ah-kit/>>; Mark Turner, LinkedIn Page, 14 January 2024. Accessed at: <<https://au.linkedin.com/in/markturnernt>>; Kezia Purick, LinkedIn Page, 14 January 2024. Accessed at: <<https://au.linkedin.com/in/keziapurick>>; Yingiya Mark Guyula, 'Biography'. Accessed at: <<https://www.yingiya.net/bio.php>>; Wikipedia, 'Robyn Lambey'. Accessed at: <https://en.wikipedia.org/wiki/Robyn_Lambey>.

¹⁶ Department of Treasury and Finance, 'Territory Economy'. Accessed at: <<https://nteconomy.nt.gov.au/population>>.

formed after commencement of the *Northern Territory (Self-Government) Act 1978 (Cth)* and is still developing its procedure and precedent. Each electorate has approximately 5,000 constituents, but geographically these electorates span from a land mass of five¹⁷ to 442,868 square kilometres.¹⁸ The latter is larger than Germany with the current incumbent winning their seat by only seven votes.¹⁹ The diverse community cross-section represented by the 25 MPs in the Assembly contextualises why parliamentary knowledge is a foreign concept to most new MPs, emphasising the importance of prioritising parliamentary procedural training.

MPs in the NT are given important parliamentary roles early in their political career. Customarily party Whips guide newly elected MPs into the Westminster system and on parliamentary practice.²⁰ However, in the NT, the position of Whip is often given to a new MP. In the 14th Assembly, the last three Government Whips were MPs for 0 months; 2 and a half years; and 8 months each prior to becoming party Whip.²¹ The first of these three became Speaker, and the second of these was Deputy Speaker before Whip. Additionally, an MP was appointed as a minister only 13 months into his political career.²² The concept of senior parliamentary positions such as Whip and

¹⁷ Northern Territory Electoral Commission, 'Division of Port Darwin'. Accessed at: <<https://ntec.nt.gov.au/electoral-boundaries/legislative-assembly-divisions2/division-of-port-darwin>>.

¹⁸ Northern Territory Electoral Commission, 'Division of Barkly'. Accessed at: <<https://ntec.nt.gov.au/electoral-boundaries/legislative-assembly-divisions2/division-of-barkly>>.

¹⁹ Northern Territory Electoral Commission, 'Barkly'. Accessed at: <<https://ntec.nt.gov.au/elections/past-elections/legislative-assembly/2020-territory-election/results/barkly>>.

²⁰ Norton, 'Learning the Ropes', p. 188; Christopher Johnson (ed), 'Comparative Study: Induction of New Members'. *The Table* 74(1) 2006, p.154.

²¹ Legislative Assembly of the Northern Territory, 'Office Holders First to Fourteenth Assemblies (1974 to Current)'. Accessed at: <<https://parliament.nt.gov.au/members/previous-assemblies>>; Legislative Assembly of the Northern Territory, 'Members First to Fourteenth Assemblies (1974 to Current)'. Accessed at: <<https://parliament.nt.gov.au/members/previous-assemblies>>.

²² Legislative Assembly of the Northern Territory, 'Northern Territory Government Ministries (Labor Party) Fourteenth Assembly, 8 September 2020–Present'. Accessed at: <<https://parliament.nt.gov.au/members/previous-assemblies>> ('Former Ministries – First to Fourteenth Assemblies, 14th Assembly'); Anabel Bowles, 'NTPA, CLP hit out at Brent Potter's promotion to Police minister in Cabinet Reshuffle'. *NT NEWS*, 31 October 2023. Accessed at: <https://www.ntnews.com.au/subscribe/news/1/?sourceCode=NTWEB_WRE170_a_GGL&dest=https>.

minster being held by highly experienced MPs is not the case in the NT. MPs with sound procedural knowledge are limited in a small parliament and procedural education is even more paramount. How the NT context impacts on an MP's involvement with their representative, political and parliamentary roles will now be considered.

Representative Role in the Northern Territory

MPs want to be seen as representing their community, through community engagement, social media and activities reported in the news. NT MPs have strong community connections and involvement as evidenced on social media or in most adjournment statements. They attend school assemblies,²³ community events,²⁴ international societies,²⁵ awards nights²⁶ and local park runs.²⁷ This level of engagement has become the norm and somewhat expected of MPs and a 'badge of authenticity and commitment'.²⁸ Significant time and energy is put into this representative priority, at the expense of other roles, including their personal one which is not discussed in this article.

www.ntnews.com.au/news/northern-territory/ntpa-clp-hit-out-at-brent-potters-promotion-to-police-minister-in-cabinet-reshuffle/news-story/2fa2ec8eaf0d9b3f405cd4a552e9cb6b8&memtype=anonymous&mode=premium

²³ J. Bowden, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 1 December 2021, p. 2884; G. Maley, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 16 February 2023, p. 5773; J. Burgoyne, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 10 November 2020, p. 332.

²⁴ L. Finocchiaro, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 30 November 2022, p. 4865.

²⁵ L. Finocchiaro, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 13 May 2021, p. 1859.

²⁶ B. Potter, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 12 October 2022, p. 4874.

²⁷ E. Lawler, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 10 November 2020, p. 334.

²⁸ Wright, 'What are MPs for?', p. 306.

Political Role in the Northern Territory

Politics are an inherent party of an MP's role. Politics certainly dominated in the NT minority government 12th Assembly, so much so that an iconic book has been written about it: *Crocs in the Cabinet*.²⁹ A recent example of politics being prioritised over parliamentary procedure is on 30 August 2023, the government agreed to the second reading of the opposition's Bail Further Amendment Bill 2023.³⁰ This enabled consideration in detail to commence. The government then defeated the bill during the third reading. An accepted parliamentary principle is that agreeing to the second reading is to be accepting the concept of the bill, which the government did not. The government may have used this tactic for political gain; an opportunity to scrutinise the opposition. The lack of an active committee system in the 14th Assembly may also be attributed to political preference.³¹ Evidently, NT MPs have strong affiliations with their political role to the extent it can impact on their parliamentary one.

Parliamentary Role in the Northern Territory

Aboriginal people represent approximately 30% of the NT population.³² Unique to the NT is the flexibility given to parliamentary procedure to accommodate Aboriginal culture. For example, pursuant to the 14th Assembly's Sessional Order 14,³³ after the Assembly adjourns it may continue with adjournment statements (not an adjournment debate). In practice, given the House is no longer meeting, decisions of the House such as leave for a non-minister to table a paper³⁴ cannot be granted during an adjournment

²⁹ Ben Smee and Christopher A Walsh, *Crocs in the Cabinet. Northern Territory Politics: An Instruction Manual on how Not to run a Government*. Sydney: Hachette Australia, 2016.

³⁰ Northern Territory, *Minutes of Proceedings for Meeting Number 87 on 30 August 2023*, 30 August 2023, p. 537.

³¹ Legislative Assembly of the Northern Territory, 'List of Committees'. Accessed at: <<https://parliament.nt.gov.au/committees/list>>.

³² Department of Treasury and Finance, 'Territory Economy'. Accessed at: <<https://nteconomy.nt.gov.au/population>>.

³³ Legislative Assembly of the Northern Territory, 'Sessional Orders and Orders of Continuing Effect'. Accessed at: <<https://parliament.nt.gov.au/business/standing-and-sessional-orders>>.

³⁴ Legislative Assembly of the Northern Territory, 'Standing Orders (4th Edition)'.

statement. Members have been denied their opportunity to seek leave to table a paper in this time.³⁵ However, when the Member for Mulka has sought leave to speak in Yolngu Matha, his Aboriginal language, under Order of Continuing Effect 3 during an adjournment statement, the House and Speaker are happy to forego the technicality that granting leave on this occasion is not possible and allow him to speak in Yolngu Matha.³⁶ The intersection of Westminster parliamentary procedure and Australian Aboriginal culture is one example where parliamentary procedure in the NT is not always adhered to. This article does not argue that in this case parliamentary procedure should have prevailed, but notes in the NT context MPs are willing to not uphold procedure in all circumstances. There are other examples of Aboriginal culture prevailing parliamentary procedure in the NT parliament that were publicly broadcast at the time. However, these occurrences were not captured in *Daily Hansard* and the NT broadcast is not publicly available for review. Consequently, these examples will not be discussed in this article. This raises an issue worth discussion on the accessibility of the parliamentary broadcast and the accuracy of the *Daily Hansard* in its editing style. This discussion is not within the scope of this article.

Clearly, MPs' representative and political roles are highly valued in the NT, and parliamentary procedure is leniently applied in matters of Aboriginal engagement. But legislation is passed and parliamentary debate is occurring. So why does the parliamentary role in the Chamber need more recognition and attention?

WHAT IS PARLIAMENTARY PROCEDURE AND WHY DOES IT MATTER?

What is Parliamentary Procedure

Parliamentary law, including relevant provisions of the *Commonwealth of Australia Constitution Act* and enabling legislation, determines the framework of parliamentary

³⁵ M. Turner, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 28 October 2021, p. 2682.

³⁶ Y. M. Guyula, Northern Territory, *Draft Daily Hansard*, Legislative Assembly, 29 November 2023, p. 93.

procedure.³⁷ It is not easily changed, protected by (i) referendum or bill process and (ii) respect for upholding parliament's strong foundation.³⁸ In comparison, procedure consists of the rules and arrangements made by a House for discharging its constitutional functions within that legal framework.³⁹ Parliamentary procedure does not have one source, location, or reference point, but is established through legislation, Speakers' rulings, standing and sessional orders, conventions, Westminster tradition, and the practice of a given House.⁴⁰ Whilst each House shapes practice to suit its particular needs or preferred manner of operation,⁴¹ the general principles of Westminster parliaments are similar. Parliaments tend to maintain core principles but differ in how items of business and rules are executed. Unlike the Constitution and enabling legislation, the House is free to modify its procedure by an order of the Assembly or by simply moving a suspension of standing and sessional orders to temporarily remove any rules that stand in the House's way of achieving its immediate goal. Parliamentary law is the toolbox and parliamentary procedures are tools, which are most useful when understood how to be used.

Why is Parliamentary Procedure Important?

Parliamentary procedure protects democracy and ensures parliament operates in the manner intended by the MPs. Poor parliamentary knowledge can lead to unintended outcomes. Parliamentary laws and procedures 'are followed because they are part of tradition, because they are reasonable, and because they are essential to the working of a democratic system.'⁴² Respecting these principles protects opposition and independent (minority) voices, allowing their criticism of government administration.⁴³

³⁷ Charles Gordon (ed), *Parliamentary Practice: Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*. London: Butterworth & Co., 1983, p. 207.

³⁸ W. Ivor Jennings, *Parliament*. London: Cambridge University Press, 1948, p. 53; Gordon, *Erskine May's Parliamentary Practice*, p. 207.

³⁹ Gordon, *Erskine May's Parliamentary Practice*, p. 207.

⁴⁰ Gordon, *Erskine May's Parliamentary Practice*, pp. 209–215.

⁴¹ Gordon, *Erskine May's Parliamentary Practice*, p. 207.

⁴² Jennings, *Parliament*, p. 53.

⁴³ Jennings, *Parliament*, p. 50.

The minority is only protected by the shields and swords of parliamentary procedure to the extent that the members of the minority know how to use them. The rules of each House are subject to change by the will of the House, ‘but the essential principle remains unchanged; the practice of the House protects minorities from oppression by overpowering majorities’.⁴⁴ Each MP has the right to participate in the parliamentary process and represent their constituents. Correct application of parliamentary procedure protects democratic principles, which is why it is imperative procedure is appreciated, respected and understood. Poor procedural knowledge impacts the House’s integrity in upholding democratic principles, and misunderstanding can have undesired consequences for MPs’ representative and political roles, as illustrated in the examples below.

LEGISLATIVE RISK EXAMPLE

If parliamentary procedure is not entirely understood, important bills may not pass in time due to avoidable procedural mistakes. On 12 June 2013, the Western Australia Legislative Assembly government introduced the Insurance Commissioner of Western Australia Amendment Bill 2013. The purpose of the bill was to provide a payout of dividends and it was vital for the bill to pass through both Houses of the Parliament before the end of financial year, with only seven sitting days remaining for both Houses.⁴⁵

On 20 June 2013, the Leader of the House moved a suspension of standing and sessional orders (SSSO motion) to allow the bill to move to the third reading without further debate or amendment, ensuring time for the bill to pass through the Legislative Council before the end of financial year.⁴⁶ Whilst the division results on the SSSO motion were 28 ayes and 15 noes, the government failed to achieve an absolute majority of 30 as required for a SSSO motion.⁴⁷ Much to the Treasurer’s shock, the government did not pass the bill through both Houses before the financial year

⁴⁴ Jennings, *Parliament*, p. 54.

⁴⁵ Parliament of Western Australia, ‘Insurance Commission of Western Australia Amendment Bill 2013’.

⁴⁶ J. H. D. Day, Western Australia, *Parliamentary Debates*, Legislative Assembly, 20 June 2013, p. 1969.

⁴⁷ The Speaker, Western Australia, *Parliamentary Debates*, Legislative Assembly, 20 June 2013, pp. 1970–1971.

concluded.⁴⁸ Had the government appreciated the absolute majority requirements for a SSSO motion, this could have been avoided. This demonstrates the legislative risk of a bill not passing in time due to procedural oversight.

POLITICAL RISK EXAMPLE

Misunderstanding or poor appreciation for the importance of parliamentary procedure can lead to undesired political outcomes. On 16 March 2016 in the Australian House of Representatives, both the government and opposition wished to move identical amendments to the Treasury Legislation Amendment (Repeal Day 2015) Bill 2016. Politically, both sides wanted their party's name on the record as the party that introduced these amendments. They were so keen that the broadcast footage shows both MPs talking over each other trying to seek the call before the Clerk had finished reading the bill a second time.⁴⁹

The Speaker gave the call to the government minister, who sought leave to move all the amendments together. When leave was not granted, it appears that the minister failed to understand that the leave was required to depart from standing orders that require amendments to be read separately and allow him to read them together. Not having the procedural understanding of what he had sought leave to do, and failing to recognise he had other options, he sat down. The opposition member then stood for the call and sought leave to move the amendments together, which was also denied. However, he then continued with the opportunity missed by the government minister and moved each amendment individually. The *Parliamentary Record* reflects that the opposition's amendments were accepted by the House. Legislatively, there was no negative impact as the bill passed with the amendments desired by both parties; however, it does not appeal to a government member's political interests that the amendments are officially recorded as being those of the Opposition's.

With such political and legislative risks at stake, for an MP to prioritise their parliamentary role also supports their political and representative roles, resulting in

⁴⁸ T. R. Buswell, Western Australia, *Parliamentary Debates*, Legislative Assembly, 20 June 2013, p. 1971.

⁴⁹ 'House of Representatives [Part 1] 16/03/2016' (*Parliament of Australia*, 2016), at 0:13:05.

less political and legislative mistakes. Can parliamentary departments increase MP engagement with their parliamentary role?

CREATING INCENTIVE AT INDUCTION

Gaining Parliamentary Knowledge

Increasing an MP's engagement with their parliamentary role can both improve the effectiveness of parliamentary debate and support MPs' representative and political interests. This message is best delivered to MPs in the induction process, to inspire MPs to continue to engage with parliamentary procedure education throughout their political careers.

As discussed above, MPs have limited knowledge of the complexities of parliamentary procedure when entering parliament. There are opportunities for MPs' parliamentary knowledge to improve. Most MPs are introduced/re-acquainted with parliamentary procedure at their initial induction after election, organised by their respective parliamentary departments.⁵⁰ After the induction, the Clerk of each House is well equipped and available to assist MPs in understanding and applying parliamentary procedure. Additionally, there are opportunities for further education through courses and conferences, for example via the Commonwealth Parliamentary Association (CPA) and the CPA Parliamentary Academy⁵¹

Parliamentary procedure is complex; such that Clerks make a career out of their parliamentary expertise; therefore, ongoing training is important for continued improvement. However, it is the MPs that shape the parliament, its procedure and how it operates. MPs are responsible for the standing and sessional orders they create and amend, and their practice on how they apply them.⁵² Greater MP education and understanding of parliamentary procedure empower the MPs to execute their parliamentary role more effectively, which in turn serves their representative and

⁵⁰ Christopher Johnson (ed), 'Comparative Study: Induction of New Members' (2006) 74 *The Table* 132.

⁵¹ Commonwealth Parliamentary Association, *Online Parliamentary Professional Development Courses 2022/2023* (2022).

⁵² Charles Gordon (ed), *Parliamentary Practice*. London: Butterworth & Co., 1983, p. 207.

political interests. Yet, exploring these opportunities for further parliamentary education is at the MPs' own discretion; the uptake of ongoing training in parliamentary procedure is at the will of the MPs themselves. Is mandatory training the answer to ensuring MPs are adequately trained in parliamentary procedure? A deeper discussion on mandatory training of MPs is beyond the scope of this article but the work of Lewis⁵³ and Steinack⁵⁴ provide some useful and relevant insights.

These authors explore the strongly held perception that parliamentary departments are apolitical bodies and as a result are distinct from MP offices and their staff. There is no direct employer of an MP, and all usual performance reviews are by the media, constituents, and fellow parliamentarians, both publicly and privately. MPs are aware of their special position, with one interviewee of Steinack's study saying:

*... I won't wear my pass around my neck only because I think I'm not a bloody employee. I won't put my pass through the automatic thing. I'm not clocking in. (...) I'm a member of parliament. This place exists to facilitate my role for my constituents.*⁵⁵

Parliamentary departments have no direct control over the performance of MPs in executing parliamentary procedure correctly in the Chamber. Clerks may only guide or advise MPs when asked, during and outside meetings of the House. While initial orientation programs for new MPs attract high participation rates, attendance for follow-on sessions providing more thorough information is notoriously low.⁵⁶ Therefore, the best opportunity a Clerk has to create incentive with MPs to engage with and care about parliamentary procedure and continue to attend training sessions offered is in the induction process.

⁵³ Colleen Lewis: 'Compulsory Professional Development for Members of Parliament', in Colleen Lewis and Ken Coghill (eds), *Parliamentarians' Professional Development: The Need for Reform*. Cham: Springer International Publishing, 2016.

⁵⁴ Steinack, 'Between Apathy and Enthusiasm'.

⁵⁵ Steinack, 'Between Apathy and Enthusiasm', p. 549.

⁵⁶ Steinack, 'Between Apathy and Enthusiasm', p. 547.

Induction to Parliament

While still valuable in its own right, much of the exiting literature discussing MP training from the last decade and explores training for MPs' role as a whole,⁵⁷ their representative, political and parliamentary duties; however, very few study specifically MPs' education in parliamentary procedure. Further research specifically into the knowledge, understanding and training of MPs in parliamentary procedure would be a useful addition to the literature currently available.

In 2006, The Table published an editorial on how 22 jurisdictions induct their MPs after a general election.⁵⁸ It shows that induction processes are often seminars run for one to two days.⁵⁹ Training content is broad and covers topics from payment, staffing, entitlements, and the department through to parliamentary procedure.⁶⁰ Time constraints allow only the basics of parliamentary procedure and the swearing-in process to be covered. In the same article, the NT Legislative Assembly reported it holds a one-day induction with briefings on procedural and corporate matters.⁶¹ Generally these content-heavy inductions are not memorable.⁶² Carina Alves member of the States of Jersey Assembly reflects on her induction process, which was much longer than a few days:

... we had two weeks of what was deemed 'training.' But for me, having been a teacher, it was just being 'talked up' for two weeks.

⁵⁷ See e.g. Colleen Lewis: 'Barriers to Prioritising Education and Training for Parliamentarians: Role Complexity and the Media' *Parliamentary Affairs* 65(2012), pp. 699–714; Colleen Lewis: 'Compulsory Professional Development for Members of Parliament', in Colleen Lewis and Ken Coghill (eds), *Parliamentarians' Professional Development: The Need for Reform*. Cham: Springer International Publishing, 2016; Abel Kinyondo: 'Return of Training Investment in Parliaments: The Need for Change in the Pacific Region', *Parliamentary Affairs* 65(3) 2012, pp. 576–593; Lam Duc Nguyen: 'Training for Elected Representatives in Vietnam: Context, Approach, Process'. *Parliamentary Affairs* 65(2012), pp. 640–657.

⁵⁸ Johnson, 'Comparative Study'.

⁵⁹ Johnson, 'Comparative Study'.

⁶⁰ Johnson, 'Comparative Study'.

⁶¹ Johnson, 'Comparative Study', pp. 114–115.

⁶² Coghill, Lewis and Steinack, 'How Should Elected Members Learn Parliamentary Skills', p. 515.

*And it was exhausting ... I learned a lot, but you can't take everything in when it's like that ... it did help, but it was intense ...*⁶³

Some parliaments reported supplementing their traditional induction process with other learning techniques. For example, mock-sittings run by parliament staff are reported to have been undertaken in the Australian Senate with positive feedback.⁶⁴ Notably, parliamentarians who participated in mock-sittings during induction were superior in performance of their parliamentary role to those of senators who had not been offered role-play.⁶⁵

Induction training is for all MPs, yet to make training accessible to all students it is regularly targeted at the lowest common denominator, the new MPs.⁶⁶ A Steinack interviewee shared it can be 'pretty boring for somebody who has spent 18 months working as a shadow ministerial advisor',⁶⁷ likewise for an experienced MP. Whilst this study was on attitudes to MPs' training on their whole role, it highlights why it is important to sell the significance of procedure in initial induction processes. New MPs must take parliamentary procedure seriously, and experienced MPs can be reminded that there is opportunity for improvement in their application, strategy and use of parliamentary procedure.

The Opportunity to Create Incentive

Rarely does the Clerk and procedural support team of a parliament have all MPs together with the opportunity to provide parliamentary procedure education. The start

⁶³ Carina Alves, Buchere Phillip Brighhtone, Alyson Queen, Mateo Lagimiri, Carly Maxwell and Cherie Morris-Tafatu, 'Parliamentary Professional Development: Participants Discuss their Experiences'. *Canadian Parliamentary Review* 45(1) 2022, p. 35.

⁶⁴ Coghill, Lewis and Steinack, 'How Should Elected Members Learn Parliamentary Skills', p. 515; Ken Coghill, Peter Holland, Ross Donohue, Kevin Rozzoli and Genevieve Grant, 'Professional Development Programmes for Members of Parliament'. *Parliamentary Affairs* 61(1) 2008, pp. 73–98.

⁶⁵ Coghill, Lewis and Steinack, 'How Should Elected Members Learn Parliamentary Skills', p. 515; Coghill, Holland, Donohue, Rozzoli and Grant, 'Professional Development Programmes for Members of Parliament', pp. 73–98.

⁶⁶ Steinack, 'Between Apathy and Enthusiasm', p. 551.

⁶⁷ Steinack, 'Between Apathy and Enthusiasm', p. 551.

of parliamentary term secures an opportunity to inspire MPs to take their parliamentary role as seriously as their representative and political priorities. As noted above, MPs are not employees; induction processes are overwhelming; MP procedural introductions are brief overviews which cannot teach all procedural nuances; and only MPs have the power to mandate their own training. The key message that MPs need to be sold during induction is:

Parliamentary procedure is important. Parliamentary procedure must be taken seriously. Parliamentary procedure can have a significant impact on your representative and political priorities and, if used properly, will be advantageous.

In order for induction experiences to be meaningful and high impact, MPs need to utilise the knowledge available to them at induction and take opportunities to further their procedural education, both initially and throughout their parliamentary careers. Through this process, greater application of parliamentary procedure can be developed and in turn support a robust and effective parliament. While some parliaments may already emphasise the value of parliamentary procedure during induction, this article highlights its importance and impact.

CONCLUSION

This article commenced with a reminder of the three core priority roles for MPs – representative, political, and parliamentary – and used these roles as a basis for exploring the value of, and need for, targeted training programs for MPs. It builds from an understanding that the political and representative roles come naturally to most MPs, and both support an MP’s public image. But reminds the reader that parliamentary procedure is also critically important, as demonstrated through discussion and examples. Lack of understanding of parliamentary procedure on the part of MPs can impact the other goals of an ambitious MP on the Chamber floor and in the broader community. For this reason, this article has argued that further thought needs to be given as to how to prioritise and integrate parliamentary procedure into induction training programs. This is because induction programs are an opportunity to encourage MPs to seek further procedural training and recognise its importance. However, responsibility to invest in parliamentary knowledge rests solely with MPs and their self-interest and motivation to do so. During induction seminars, parliamentary departments are encouraged to emphasise parliamentary procedure as a priority as it is a key opportunity for MPs to recognise the importance of their parliamentary

education and seek further training. If parliamentary departments invest in and assist MPs in recognising the value of procedure, the priority imbalance between the three identities may balance out.

Disengagement and Defeat of the Voice to Parliament Referendum

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Abstract: This Article looks back on the defeat of the Aboriginal and Torres Strait Islander Voice to Parliament referendum held in October 2023 and considers a number of influences to help explain the failure of the referendum. The continuing disengagement or decline in voter participation in this referendum is of significant concern, especially in the Northern Territory. The stakes were high that this referendum campaign would not create a rift within the Australian community but would become a vehicle for greater understanding and relationship between Australia's Indigenous and non-Indigenous communities. This article highlights the approximately 1.8 million enrolled voters who failed to attend a polling booth at the Voice to Parliament referendum. Could these voters have made a difference in the outcome? If not, could augmenting the current referendum machinery with deliberative democratic processes provide the engagement tools needed to reverse this trend of declining participation?

INTRODUCTION

The Aboriginal and Torres Strait Islander Voice to Parliament referendum, foreshadowed by Prime Minister Anthony Albanese in his election night winning speech in 2022, has now been run. The October 2023 result has been a resounding defeat¹, confounding early polling suggesting the Voice to Parliament proposal enjoyed a high level of popular support but suffered a declining trend leading up to the referendum vote.² In national terms, the Yes campaign was only able to garner 39.94%

¹ Geoff Chambers and Rosie Lewis, 'Truth-Telling for PM', *The Australian*, 16 October 2023, p. 1.

² Tom McLroy, 'Public support shifting away from the Voice: poll', *Australian Financial Review*, 19 May 2023.

of the formal vote. No State gained a majority of Yes votes. The double-majority required of section 128 constitutional amendment proposals failed significantly on both fronts. The Voice to Parliament proposal failed to achieve a majority of the national votes including both States and Territories. It also failed to achieve a majority of States with a majority of Yes votes.

Amongst all the States and Territories, only the ACT achieved a majority of Yes votes in the referendum, but Territories only count towards the national vote. No State achieved a majority of Yes votes. Victoria achieved the highest Yes vote at 45.85%, with the lowest Yes vote occurring in Queensland at 31.79%.³

Table 1. Summary of the Voice to Parliament Referendum results, held on 14 October 2023.

State	Enrolment	Yes Votes	Yes %	No Votes	No %	Ordinary Votes	Informal	Total Votes	Turnout %
NSW	5,586,087	2,058,764	41.04	2,957,880	58.96	5,016,644	57,285	5,073,929	90.83
VIC	4,467,175	1,846,623	45.85	2,180,851	54.15	4,027,474	39,038	4,066,512	91.03
QLD	3,631,607	1,010,416	31.79	2,167,957	68.21	3,178,373	27,266	3,205,639	88.27
WA	1,826,031	582,077	36.73	1,002,740	63.27	1,584,817	13,454	1,598,271	87.53
SA	1,284,140	417,745	35.83	748,318	64.17	1,166,063	11,478	1,177,541	91.70
TAS	406,939	152,171	41.06	218,425	58.94	370,596	3,967	374,563	92.04
ACT	316,814	176,022	61.29	111,192	38.71	287,214	2,237	289,451	91.36
NT	152,991	43,076	39.70	65,429	60.30	108,505	820	109,325	71.46
Total	17,671,784	6,286,894	39.94	9,452,792	60.06	15,739,686	155,545	15,895,231	

³ Australian Electoral Commission, 'AEC Tally Room 2023 Referendum National Results'. Accessed at: <<https://results.aec.gov.au/29581/Website/ReferendumNationalResults-29581.htm>>.

The 2023 Voice to Parliament referendum result is not alone in experiencing a significant defeat in recent times.⁴ The referendum results in the Republic of Ireland suffered a similar sized defeat. On Friday, the 8th of March 2024, voters rejected two proposals for amending the 1937 Irish Constitution. Of the two referendum questions, the first proposal altering the wording in the constitution to include families that are not based on marriage was defeated with a 67.7% No vote. The second proposal was a change to the wording around the role of women in the home, which was defeated by an even higher margin of 73.90% voting No. It was the highest ever No vote in an Irish referendum.⁵ Ironically, the actual day of the Irish referendum was held on International Women's Day.

The recent South Australian First Nations Voice election process has also experienced difficulties. The turnout for representatives' election to the SA First Nations Voice has been extremely low, with more than 90% of enrolled voters failing to cast a ballot.⁶ The issue of voter turnout will be considered later in the context of the Voice to Parliament referendum.

The conclusion of my previous article, '*The Voice Referendum Needs to Enter the Deliberative Zone*', included the notion that ideally, 'the public discourse from now until the referendum vote will be considered, respectful and will enable the public to understand the issues related to the proposed Voice to Parliament and its impact on Parliament and the Executive Government. The race to the referendum finish line has begun'.⁷ One question to be addressed in this article is how well this ideal has been reached.

A limitation of this article is that it specifically focuses on the level of 'deliberation' found in the referendum campaign and the implications for future referendum outcomes. I continue to reference the work of Lawrence LeDuc, who has researched the deliberative nature of referendums and elections over many years.⁸ This article

⁴ Timothy Lynch, 'Why is the progressive left losing the referendum wars', *The Australian*, 18 March 2024, p. 13.

⁵ Rory Carroll, 'Ireland's referendums: what went wrong, and what happens now?', *The Guardian*, 10 March 2024.

⁶ Brad Crouch, 'Poor voter turnout in historic Voice election', *The Advertiser*, 30 March 2024, p. 9.

⁷ Andrew Cole, 'The Voice Referendum Needs to Enter the Deliberative Zone', *Australasian Parliamentary Review*, Autumn/Winter 2023 Vol 38 No 1, pp. 34-51.

⁸ L. LeDuc, 'Referendums and elections: How do campaigns differ?', in David M. Farrell and Rüdiger Schmitt-Beck (eds), *Do Political Campaigns Matter?: Campaign Effects in Elections and Referendums*, London: Routledge, 2002, pp. 145-162.

does not attempt to analyse the merits or otherwise of the referendum proposal itself, other than to draw out any deliberative democratic influences during the referendum campaign. I will then proceed to examine the level of participation or turnout in the 2023 referendum vote as a measure of engagement in the referendum process. A further question to be answered in this article is: How do we respond to the declining trend in voter participation in referendums and elections in general in Australia?

EXTENT OF DELIBERATION FOUND IN THE 2023 REFERENDUM

This article aims to reflect on the conduct of the 2023 Voice to Parliament through the lens of a number of influences on the quality of the deliberative democratic quality found during a referendum campaign. This work contrasts what LeDuc characterises as the interaction of ‘voice’ and ‘vote’. As a reminder of the contrast between the two, by ‘voice’, LeDuc means the general conception of deliberation that allows for a process to consider various positions and discuss issues that enable the voting public to make an informed decision. By ‘vote’, he means the physical act of casting a ballot at the end of the referendum campaign.⁹ The most significant influences LeDuc describes are the motive for initiating a referendum, the role of the government of the day, the clarity of the referendum question and the ‘complexity of the proposals.’¹⁰

Motive

When considering the element of ‘*motive*’, the focus is on whether the justification for submitting a referendum proposal to a national vote has contributed to increasing the level of deliberative democratic quality or not. The emergence of the Voice to Parliament referendum can be traced back to decades of pressure for the constitutional recognition of Aboriginal and Torres Strait Islander people and, most importantly, the election night speech in May 2022, where the Labor Party gained power at the Federal election, given by Anthony Albanese. In his speech, Albanese

⁹ L. LeDuc, ‘Referendums and deliberative democracy’, *Electoral Studies*, 38, 2015, p.139.

¹⁰ L. LeDuc, ‘Referendums and Deliberative Democracy’, Conference Paper at the International Political Science Association World Congress, Fukuoka, Japan, 9-13 July 2006, p. 2. Accessed at: <http://paperroom.ipsa.org/papers/paper_5268.pdf>.

committed to the Uluru Statement from the Heart in full, a statement that included the goal of a First Nations voice to be enshrined in the Commonwealth Constitution.¹¹

The initiation of the Voice to Parliament referendum can be ‘bookended’ by the Prime Minister’s comments after the defeat of the referendum in December 2023, where he distanced himself from any sense of responsibility for the defeat by claiming that the defeat was not a “loss for him”.¹² The significance of this declaration is that it indicates that the motive of the Prime Minister was to attempt to use the referendum proposal, which was extremely popular at the time, to create a policy problem for the Leader of the Opposition. This gamble did not pay off, as the voting public did not approve the referendum proposal. The level of overconfidence in the Labor Government has been characterised as one of the major reasons for the referendum defeat.¹³

Although initiating the Voice to Parliament referendum may have been motivated by ostensibly political reasons, that did not necessarily mean that good deliberation could not have taken place. That the unfolding referendum campaign became a contest of fixed positions meant that the quality of deliberation was low. The consequence of this partisan campaigning continues to be felt in the handling of other major policy areas, such as religious freedom reforms.¹⁴

The Role of the Government

In Australia, governments initiate constitutional referendums, and the role the government of the day plays during any referendum campaign greatly influences the level of deliberation experienced during a particular referendum process. The Albanese Labor Government prosecuted the case for the Voice to Parliament referendum in conjunction with a well-funded independent Yes campaign. With a high level of

¹¹ The Uluru Dialogue, ‘The Statement’. Accessed at: <<https://ulurustatement.org/the-statement/view-the-statement/>>.

¹² Paige Taylor and Jess Malcolm, ‘Voice ‘not my loss’, Albanese declares’, *The Australian*, 26 December 2023, p. 1.

¹³ Greg Craven, ‘Eight Reasons why the Yes case failed’, *The Australian*, 16 October 2023. Accessed at: <<https://www.theaustralian.com.au/commentary/eight-reasons-why-the-yes-case-failed/news-story/2f46117e59bdc170a1f242dbc85d9775>>.

¹⁴ Rosie Lewis and Joe Kelly, ‘Conviction PM’ has a caveat’, *The Australian*, 20 March 2024, p. 1.

confidence in the popular support for the proposal¹⁵, the Albanese Labor Government did not see the need to engage the Liberal National Party Coalition in any sense of bipartisanship. It prosecuted the referendum case as a winner-takes-all campaign.¹⁶

Greg Craven, a member of the Albanese Government's Constitutional Expert Group, considered the Labor Government Ministry's lack of effectiveness in advancing a rational argument for change to an audience of undecided and sceptical voters as another reason for failure. The Government's messaging was countered by a combination of key Opposition spokespersons and minor party disagreement, such as that by Senator Lidia Thorpe.¹⁷

The fixed positions that the Albanese Labor Government took, the Yes23 campaign organisation, the Liberal National Party Opposition and other dissenting parliamentary MPs all combined to make the referendum campaign more akin to a combative general election than a referendum. The resulting low level of deliberative democratic quality is not a surprise.

Clarity

The third influence on good deliberation that LeDuc provides is that of clarity, where the more precise the referendum question, the greater the likelihood that voters will understand the purpose of the referendum and will not be subject to different interpretations or deliberate misinterpretations.

With a deliberate strategy of not being precise in the wording of the referendum question, the Prime Minister found himself being criticised over the ambiguity in the referendum proposal over such issues as what the definition of the executive government was and what government agencies would be in the scope of the proposed Voice body, as well as how 'representations' would be made by the Voice and what

¹⁵ Essential Research, 'Support for Voice to Parliament, August 2022 to May 2023.' Accessed at: <<https://essentialreport.com.au/questions/support-for-voice-to-parliament-5>>.

¹⁶ Andrew McMillan, 'Good Oil on what went wrong: the PM's referendum mistakes', *The Australian*, 09 March 2024, p. 1.

¹⁷ Greg Craven, 'Campaign of hubris broke Indigenous hearts', *The Australian*, 16 October 2023, p. 15.

role, if any, would the High Court play in resolving any disputes.¹⁸ The wording of the referendum was deliberately designed not to be precise but made to be presented as a ‘modest and gracious request for reconciliation by Aboriginal and Torres Strait Islander peoples’.¹⁹

The wording was unclear, causing confusion and lowering the level of deliberation, especially when combined with the election campaign style in which the referendum was conducted.

Complexity

More than just clarity, complexity's impact can influence the deliberation level found in a referendum campaign. LeDuc highlights that as the problems or the issues embedded within a referendum question increase, the greater likelihood that people will find it challenging to engage in reasoned debate. The more complex issues are built into a referendum question, the greater the potential for failure.

The issue of complexity was a significant issue in the Voice to Parliament referendum proposal, as the institutional mechanism of the Voice body raised many questions as to its design, election, and representation, the nature of advice and whether it was justiciable, to what part of the Executive Government could the Voice body make representations and when, to name a few.

As detailed in the official Referendum Booklet, the arguments put forward by both the Yes campaign and the No campaign covered a significant range of complex issues that made understanding the implications of the referendum proposal difficult.²⁰ The timing of the referendum was also questioned, especially in the context of an economic ‘cost of living crisis’ with a sustained period of interest rate rises by the Reserve Bank of Australia that had a serious financial impact on many home mortgage holders.²¹

¹⁸ Chris Kenny, ‘Voice’s wording does not ‘clarify’ whether advice must be ‘taken into account’: Stoker’, *Sky News Online*, 28 September 2023.

¹⁹ Josh Butler, ‘Anthony Albanese calls leftwing opponents of voice to parliament ‘radicals’’, *The Guardian*, 27 January 2023.

²⁰ Australian Electoral Commission, *2023 Referendum Booklet*. Accessed at: <<https://www.aec.gov.au/referendums/files/pamphlet/referendum-booklet.pdf>>.

²¹ Andrew McMillan, ‘Good oil on what went wrong: The PM’s referendum mistakes’, *The Weekend Australian*, 9 March 2024.

The complexity of the Voice to Parliament referendum made good deliberation difficult during the campaign. Given the economic cost-of-living crises being experienced by the Australian electorate, the timing of the referendum was also questioned.²² The analysis of the Voice to Parliament referendum's failure will continue for some time.²³

PARTICIPATION AND ENGAGEMENT

LeDuc's work contrasts the nature of elections and referendums and highlights that they are different electoral processes with different goals. Elections are contests between political opponents fighting to control a democratically elected government. Referendums are policy questions that are put to the voting public to decide. While the Voice to Parliament referendum campaign saw a political intrusion into the referendum process, one element of LeDuc's analysis is worth considering at a more detailed level: voter participation as a measure of engagement or disengagement in the current Australian context. LeDuc states that a 'truly deliberative direct democratic process requires both the engagement and participation of its citizenry'.²⁴

The Australian experience must be considered in light of 'compulsory voting', or the compulsory attendance at polling stations, that was introduced at the Federal level in 1924. The following graph demonstrates the change in voting turnout since Federation, with the high turnout rising to above 90% after the 1925 Federal election.²⁵

²² David Penberthy, 'Even the best-explained version of the Voice would have failed', *The Advertiser*, 14 October 2023.

²³ Sarah Ison, 'Yes campaign crash: Gooda's anger at PM's voice strategy, and aftermath', *The Australian*, 23 February 2024, p. 1.

²⁴ LeDuc, 'Referendums and deliberative democracy', p. 145.

²⁵ Australian Electoral Commission, Voter Turnout – previous events. Accessed at: <https://www.aec.gov.au/Elections/federal_elections/voter-turnout.htm>.

Figure 11. National Voter Turnout from 1901 to 2023, including both Federal elections and referendums.

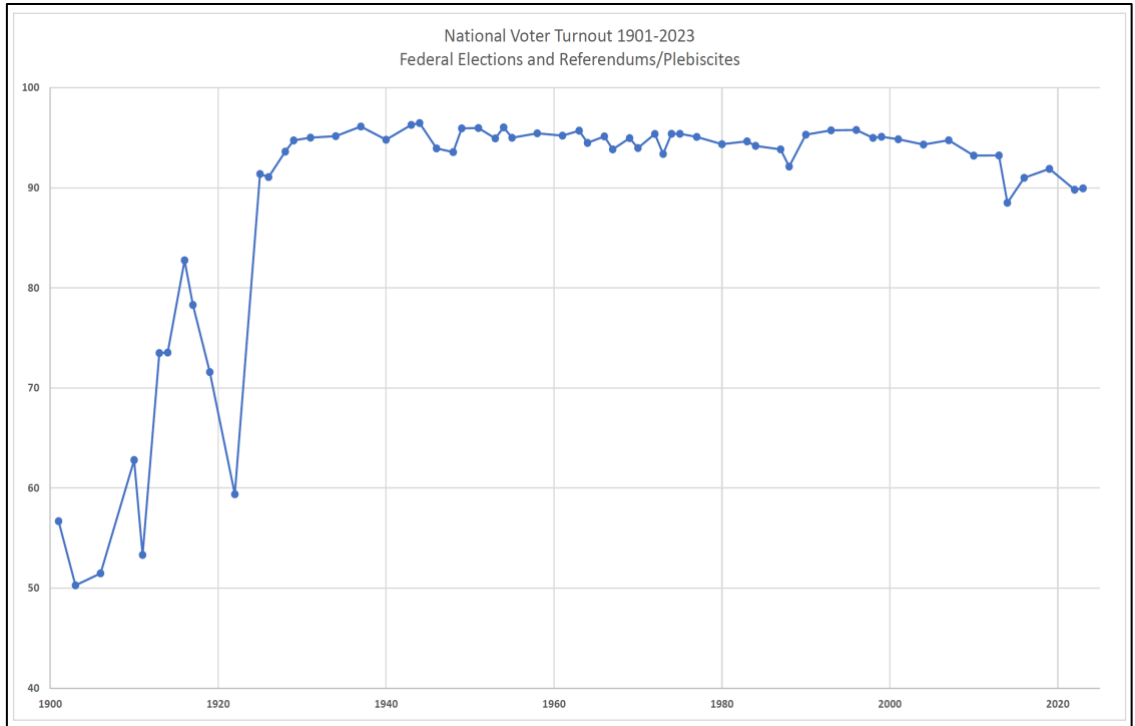


Table 2. National Summary Results in the 2023 Voice to Parliament Referendum.

The following table shows the voting results of the 2023 referendum at the State and Territory levels.²⁶

State	Enrolment	Yes		No		Ordinary Votes	Informal	Total Votes	Turnout%
		Votes	Yes %	Votes	No %				
NSW	5,586,087	2,058,764	41.04	2,957,880	58.96	5,016,644	57,285	5,073,929	90.83
VIC	4,467,175	1,846,623	45.85	2,180,851	54.15	4,027,474	39,038	4,066,512	91.03
QLD	3,631,607	1,010,416	31.79	2,167,957	68.21	3,178,373	27,266	3,205,639	88.27
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TAS	406,939	152,171	41.06	218,425	58.94	370,596	3,967	374,563	92.04
ACT	316,814	176,022	61.29	111,192	38.71	287,214	2,237	289,451	91.36
NT	152,991	43,076	39.70	65,429	60.30	108,505	820	109,325	71.46
TOTAL	17,671,784	6,286,894	39.94	9,452,792	60.06	15,739,686	155,545	15,895,231	

In examining the voting results, the Yes result is compared to the total enrolment figures for each Federal Division. While a narrow focus on the formal voting pattern in each Division provides a contrast between the Yes and No votes, a focus including total enrolment figures for each Division draws attention to those eligible voters that were ‘missing in action’.

The statistical data highlights that voter turnout varies between the States and Territories and shows that voter turnout has been declining over time. This is a worrying trend, especially the declining voter turnout in the Northern Territory.

First, if we look at the Yes voting pattern for Federal Divisions that returned a Yes result of greater than 50% of the formal Yes/No votes, we can see that only 34 of 151 Divisions voted ‘Yes’. Also calculated for each of the Divisions is a Yes vote to formal enrolment percentage. When this enrolment figure is compared to the number of Yes votes, only two Divisions in the 2023 referendum have a calculated Yes-to-Enrolment figure of over 50%. Interestingly, these two Divisions are Canberra, in the ACT, and Grayndler, Anthony Albanese’s own House of Representative seat in southern Sydney.

²⁶ Australian Electoral Commission, 2023 Referendum Tally Room National Results. Accessed at: <<https://results.aec.gov.au/29581/Website/ReferendumNationalResults-29581.htm>>.

Table 3. Federal Division Results in the 2023 Referendum with a Majority of Yes Vote.

State	Division Name	Party	Formal Yes Votes	Yes %	Total Votes	Total Enrolment	YES Vote to Enrolment %
ACT	Bean	ALP	49,487	55.90%	88,526	111,159	44.52%
NSW	Bradfield	LP	42,274	51.65%	81,850	109,572	38.58%
QLD	Brisbane	GRN	46,118	57.03%	80,873	127,063	36.30%
ACT	Canberra	ALP	53,971	70.63%	76,409	101,799	53.02%
VIC	Chisholm	ALP	38,202	50.34%	75,884	110,970	34.43%
TAS	Clark	IND	31,867	58.48%	54,490	74,366	42.85%
VIC	Cooper	ALP	51,753	65.92%	78,508	111,841	46.27%
NSW	Cunningham	ALP	47,599	51.64%	92,182	118,357	40.22%
WA	Curtin	IND	44,732	51.43%	86,980	121,506	36.81%
ACT	Fenner	ALP	46,771	57.26%	81,687	103,856	45.03%
TAS	Franklin	ALP	31,522	50.79%	62,063	81,864	38.51%
VIC	Fraser	ALP	42,293	56.71%	74,576	113,489	37.27%
VIC	Gellibrand	ALP	43,414	53.32%	81,418	113,775	38.16%
VIC	Goldstein	IND	45,626	56.43%	80,850	111,802	40.81%
NSW	Grayndler	ALP	61,733	74.40%	82,973	111,385	55.42%
QLD	Griffith	GRN	46,172	57.08%	80,887	123,514	37.38%
VIC	Higgins	ALP	44,694	61.15%	73,085	110,036	40.62%
VIC	Isaacs	ALP	41,868	50.88%	82,280	113,627	36.85%
VIC	Jagajaga	ALP	46,571	54.69%	85,148	114,687	40.61%
NSW	Kingsford Smith	ALP	46,221	54.85%	84,273	115,814	39.91%
VIC	Kooyong	IND	48,046	60.23%	79,769	114,138	42.09%
NSW	Mackellar	IND	43,454	50.48%	86,089	112,551	38.61%
VIC	Macnamara	ALP	44,633	66.17%	67,456	113,597	39.29%
VIC	Maribyrnong	ALP	38,917	51.38%	75,738	111,154	35.01%
VIC	Melbourne	GVIC	52,933	78.30%	67,599	116,172	45.56%
NSW	Newcastle	ALP	50,627	53.70%	94,271	123,663	40.94%
NSW	North Sydney	IND	48,651	59.80%	81,352	113,165	42.99%
WA	Perth	ALP	45,392	53.85%	84,301	123,816	36.66%
NSW	Reid	ALP	41,765	50.76%	82,286	116,651	35.80%
QLD	Ryan	GRN	42,279	53.35%	79,255	113,005	37.41%
NSW	Sydney	ALP	55,522	70.69%	78,546	122,228	45.42%
NSW	Warringah	IND	46,687	58.97%	79,176	106,766	43.73%
NSW	Wentworth	IND	44,976	62.09%	72,439	104,435	43.07%
VIC	Wills	ALP	48,552	65.25%	74,413	111,159	43.68%
National Vote			5,017,444	40.09%	12,650,010	17,671,784	28.39%

The data above highlights the fragile nature of the Yes vote. If the success of the referendum were a majority of Yes votes compared to actual enrolment, then the 2023 referendum result would have been a bigger defeat than it actually was.

This data also highlights a challenge for the Australian Electoral Commission, which is required to follow up with registered eligible voters who do not attend a polling booth on an election day. These non-voters may be subject to a small fine for not voting.

If we now move to the issue of the long-term decline in voter participation, the following table details the disengagement in voter participation over the last thirty years. The table details the average decline of 6.9% across all States and Territories, including a long-term decline in voter participation of 17.33% for the Northern Territory. The turnout rate for the Northern Territory experienced a high point of 90.33% in 1998 and is now sitting at a turnout rate of 71.47%

Table 4. Voter turnout figures for States and Territories from 1993 to 2023, including the 1999 and 2023 referendums.²⁷

State/Territory	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
1993	95.99	96.25	95.17	95.63	94.91	96.30	96.74	88.79
1996	96.37	96.11	94.62	94.95	95.89	96.58	96.67	89.10
1998	94.85	95.61	94.24	94.66	95.67	96.12	95.65	90.33
1999 *	95.23	95.32	94.63	94.73	96.01	96.31	95.31	84.96
2001	94.74	95.14	94.72	94.57	95.55	96.14	94.97	86.11
2004	94.70	94.87	93.74	92.79	94.79	95.65	94.95	84.25
2007	94.99	95.17	94.41	93.26	95.42	95.76	95.85	86.53
2010	93.33	93.49	92.73	92.84	93.83	95.07	94.63	82.67
2013	93.30	93.40	93.55	92.07	93.46	94.73	94.64	82.22
2016	91.49	91.14	91.17	88.38	91.81	93.59	92.16	79.01
2019	92.16	92.62	91.22	90.05	93.07	94.34	93.15	77.94
2022	90.70	90.59	88.16	87.99	91.07	92.43	92.07	73.08
2023 *	90.83	91.03	88.27	87.53	91.70	92.04	91.36	71.46
Overall Decline	5.16	5.22	6.90	8.10	3.21	4.26	5.38	17.33

When looking at the national voting statistics at the Federal Division level, the average turnout rate for all Divisions is 89.90%. Out of 151 Divisions in the House of Representatives, sixty-four have turnout rates lower than the average. To highlight the spread of Divisions across jurisdictions, the following table details the Divisions with the lowest turnout rates.

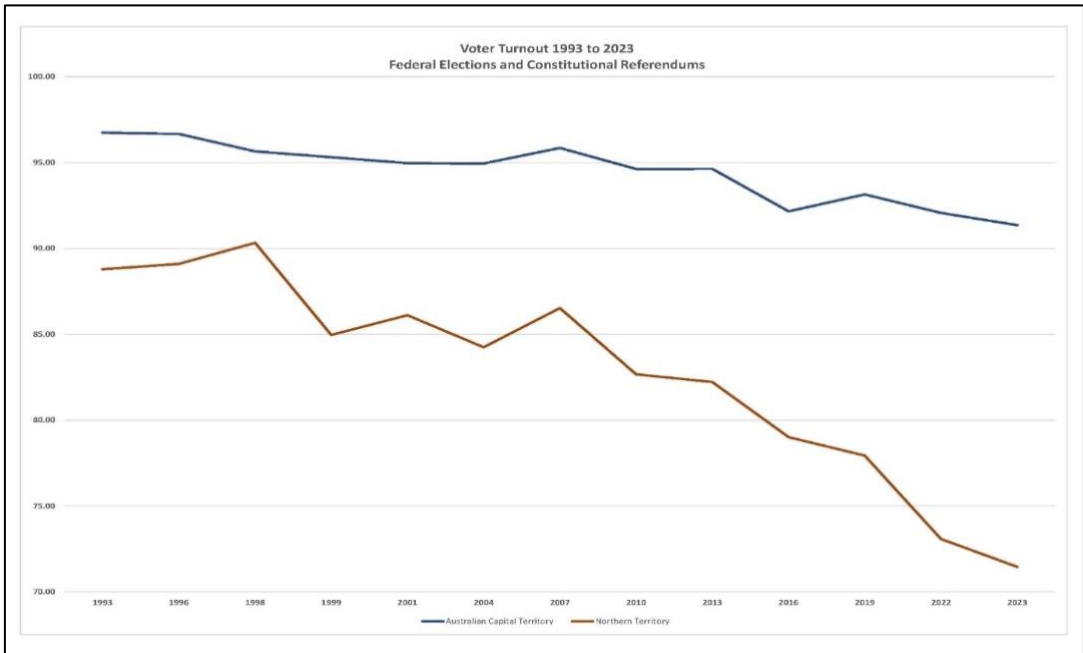
²⁷ Australian Electoral Commission, Tally Room Archive. The archive page details data for all Federal elections from 2001, the 2023 referendum, and all By-elections since 2005. Accessed at: <<https://results.aec.gov.au/>>.

Table 5. The ten Divisions with the Lowest Turnout Rates at the 2023 Referendum.

Division	State	Formal Votes	Informal Votes	Total Votes	Informal Percent	Total Enrolment	Turnout%
Moncrieff	QLD	104005	1139	105144	1.08%	124154	84.69%
Burt	WA	98112	863	98975	0.87%	117372	84.33%
Kennedy	QLD	101787	669	102456	0.65%	121512	84.32%
Calwell	VIC	96379	1505	97884	1.54%	116563	83.98%
Blaxland	NSW	90124	2376	92500	2.57%	110298	83.86%
Rankin	QLD	93123	1050	94173	1.11%	112395	83.79%
Leichhardt	QLD	99223	827	100050	0.83%	122282	81.82%
Durack	WA	100215	718	100933	0.71%	124228	81.25%
Solomon	NT	57346	435	57781	0.75%	72936	79.22%
Lingiari	NT	51159	385	51544	0.75%	80055	64.39%

Figure 12. Voter turnout figures for the ACT and NT, 1993 to 2023.

The data for the ACT and the Northern Territory can be seen in the following graph.



The most significant decrease in voter participation is evidenced in the Northern Territory. Participation dropped from a high point of 90.33% in 1998 to the current level of 71.46%, which was experienced in the 2023 referendum.

The decline in voter turnout was identified by the most recent Federal Joint Standing Committee of Electoral Matters (JSCEM) Report released in November 2023 when reviewing the conduct of the 2022 Federal election.²⁸

We now turn to the Northern Territory Division data to drill down at a more granular level. Is the decline in voter participation consistent across the Divisions within the Territory, or is there a particular Division experiencing a higher level of disengagement?

²⁸ Joint Standing Committee on Electoral Matters, Conduct of the 2022 federal election and other matters, *Final Report*, Parliament of Australia, Canberra, November 2023, pp. 25-58. Chapter 2 of the Final Report considered issues surrounding Aboriginal and Torres Strait Islander participation in elections.

The Federal Division of Solomon is based around Darwin, the capital of the Northern Territory, including the areas of Darwin, Eaton, and Palmerston. The table below shows the decline in voter turnout in this Division since 2007.

Table 6. Trend in Voter Turnout in the Federal Division of Solomon.

Year	DivisionNm	Enrolment	Turnout	Turnout Percentage
2007	Solomon	57,641	53,065	92.06
2010	Solomon	59,891	53,672	89.62
2013	Solomon	63,163	56,413	89.31
2016	Solomon	69,998	58,665	83.81
2019	Solomon	69,336	57,602	83.08
2022	Solomon	71,843	57,136	79.53
2023	Solomon	72,936	57,781	79.22

The Federal Division of Lingiari is the residual geographical area outside of the general Darwin metropolitan area, including Eaton and Palmerston. This area includes all of the remote indigenous communities of the Northern Territory.

Table 7. Trend in Voter Turnout in the Federal Division of Lingiari.

Year	DivisionNm	Enrolment	Turnout	Turnout Percentage
2007	Lingiari	60,404	49,084	81.26
2010	Lingiari	61,168	46,409	75.87
2013	Lingiari	65,916	49,715	75.42
2016	Lingiari	63,131	46,525	73.70
2019	Lingiari	70,023	51,009	72.85
2022	Lingiari	74,008	49,459	66.83
2023	Lingiari	80,055	51,544	64.39

The specific case of the Division of Lingiari was noted in the JSCEM Final Report on the 2022 Federal election, where:

Lingiari particularly stands out: voter participation was the lowest in Australia, at a record low of 66.83 per cent. For the 2019 federal election, this figure was 72.85 per cent.⁸ According to the Northern and Central land councils, Lingiari consistently has the lowest turnout

*of enrolled voters, and has the highest number of unenrolled voters in Australia.*²⁹

The continuing decline in voter participation in the Division of Lingiari, which contains Australia's most remote communities, should be of significant concern to the Australian Electoral Commission and the Federal Government. Time and effort must be expended to reverse this concerning trend. Is it acceptable that 35.61%

While it is observed that many remote polling booths voted significantly for the Voice to Parliament referendum, such as Jabiru in the Northern Territory (Lingiari, 58.41% voted Yes) and Fitzroy Crossing in Western Australia (Durack, 71.11% voted Yes)³⁰, these mask the broader picture of significant disengagement within remote communities in Australia. The number of actual votes received in these small remote communities is low relative to the Division enrolment figures. For example, 214 votes were cast in Jabiru, while the Division enrolment for Lingiari was 80,055. The number of votes cast in Fitzroy Crossing was 315, while the enrolment figure in Durak was 124,228.

The Central Land Council made a submission to the JSCEM Inquiry into the 2022 Federal Election, highlighting the issues surrounding participation in remote communities and the impact that funding cuts in electoral participation programs have caused. In advocating for the reinstatement of these programs and for additional funding, the Central Land Council stated that:

Policy initiatives from the late 1970s until the 1990s that promoted education and electoral participation of Aboriginal people increased enrolment and voting, but these have since been cut and defunded and laws have been enacted that create further barriers to

²⁹ Joint Standing Committee on Electoral Matters, Conduct of the 2022 federal election and other matters, *Final Report*, Para 2.11, p. 27

³⁰ Mike Berry, M., 'The Voice Referendum', *Journal of Australian Political Economy*, No. 92, 2024, pp. 244.

enrolment. Decreasing electoral engagement in the seat of Lingiari is a direct result of these laws and policies.³¹

With a referendum on an Indigenous Voice to Parliament imminent, the need for increased enrolment and participation of Indigenous people in the Federal electoral process is particularly urgent. The CLC stands ready to work with government and communities to ensure Indigenous voices are heard and votes are counted.³²

In the Final Report of the 2022 Inquiry, when considering what recommendations to make regarding Aboriginal and Torres Strait Islander participation, the Joint Standing Committee on Electoral Matters agreed that the Australian Electoral Commission should be encouraged to build higher participation rates within the Aboriginal and Torres Strait communities through local workforce collaboration and improved voter education.³³

An interesting exercise is to see what would happen to the referendum result if ALL the missing votes were cast for the Yes vote. What would the outcome be? Would the result have changed? As detailed by the analysis of the Voice to Parliament referendum by the ANU Centre for Social Research and Methods:

Furthermore, a higher proportion of people who didn't end up voting said that they would have voted yes when asked in August, implying that low turnout suppressed the yes vote.³⁴

The starting position of this what-if analysis is the State and Territory summary results.

³¹ Central Land Council, Submission to the Joint Standing Committee on Electoral Matters (submission 478), *Inquiry into the 2022 federal election*, October 2022, p. 12.

³² Central Land Council, Submission to the Joint Standing Committee on Electoral Matters (submission 478), p. 13.

³³ Joint Standing Committee on Electoral Matters, Conduct of the 2022 federal election and other matters, *Final Report*, Recommendation 4, Para 2.187, p. 58.

³⁴ Nicholas Biddle, Matthew Gray, Ian McAllister, and Matt Qvortrup, 'Detailed analysis of the 2023 Voice to Parliament Referendum and related social and political attitudes', The ANU Centre for Social Research and Methods, Australian National University, 28 November 2023, p. iii. Accessed at <https://csrcm.cass.anu.edu.au/sites/default/files/docs/2023/11/Detailed_analysis_of_the_2023_Voice_to_Parliament_Referendum_and_related_social_and_political_attitudes.pdf>.

Table 8. Summary 2023 referendum results by State and Territory.

State	Enrolment	Yes Votes	Yes %	No Votes	No %	Ordinary Votes	Informal	Total Votes	Turnout %
NSW	5,586,087	2,058,764	41.04	2,957,880	58.96	5,016,644	57,285	5,073,929	90.83
VIC	4,467,175	1,846,623	45.85	2,180,851	54.15	4,027,474	39,038	4,066,512	91.03
QLD	3,631,607	1,010,416	31.79	2,167,957	68.21	3,178,373	27,266	3,205,639	88.27
WA	1,826,031	582,077	36.73	1,002,740	63.27	1,584,817	13,454	1,598,271	87.53
SA	1,284,140	417,745	35.83	748,318	64.17	1,166,063	11,478	1,177,541	91.70
TAS	406,939	152,171	41.06	218,425	58.94	370,596	3,967	374,563	92.04
ACT	316,814	176,022	61.29	111,192	38.71	287,214	2,237	289,451	91.36
NT	152,991	43,076	39.70	65,429	60.30	108,505	820	109,325	71.46
Total	17,671,784	6,286,894	39.94	9,452,792	60.06	15,739,686	155,545	15,895,231	

Subtracting the total number of votes from the enrolment figures for each State and Territory can reveal the number of missing eligible voters.

Table 9. The Number of Missing Votes per State/Territory.

State	Enrolment	Total Votes	Difference
NSW	5,586,087	5,073,929	512,158
VIC	4,467,175	4,066,512	400,663
QLD	3,631,607	3,205,639	425,968
WA	1,826,031	1,598,271	227,760
SA	1,284,140	1,177,541	106,599
TAS	406,939	374,563	32,376
ACT	316,814	289,451	27,363
NT	152,991	109,325	43,666
National	17,671,784	15,895,231	1,776,553

While the Australian Electoral Commission does not have enrolment figures based on individual polling places but only at the Division level, the following table details what the result could have been if every missing eligible voter voted Yes.

Table 10. Project Yes Votes if all missing votes were Yes Votes.

State	Enrolment	New YES	Yes %	No Votes	No %	New Ordinary	New Informal	New Total Votes	Turnout %
NSW	5,586,087	2,570,922	46.50	2,957,880	53.50	5,528,802	57,285	5,586,087	100%
VIC	4,467,175	2,247,286	50.75	2,180,851	49.25	4,428,137	39,038	4,467,175	100%
QLD	3,631,607	1,436,384	39.85	2,167,957	60.15	3,604,341	27,266	3,631,607	100%
WA	1,826,031	809,837	44.68	1,002,740	55.32	1,812,577	13,454	1,826,031	100%
SA	1,284,140	524,344	41.20	748,318	58.80	1,272,662	11,478	1,284,140	100%
TAS	406,939	184,547	45.80	218,425	54.20	402,972	3,967	406,939	100%
ACT	316,814	203,385	64.65	111,192	35.35	314,577	2,237	316,814	100%
NT	152,991	86,742	57.00	65,429	43.00	152,171	820	152,991	100%
Total	17,671,784	8,063,447	46.03	9,452,792	53.97	17,516,239	155,545	17,671,784	

The projected 'what-if' result would not have changed the result significantly from the actual result other than lifting the Yes vote in Victoria to over 50%.

If participation has not affected the result, and one of the main concerns regarding the referendum process was the level of voter engagement, then the referendum process could well profit from the incorporation of additional deliberative democratic processes into the machinery of constitutional referendums.

The analysis above highlights that even if every missing eligible voter had cast a vote for the Yes campaign, the result would not have been significantly altered.

CONCLUSION

This article has not attempted to provide an analysis of the merits or otherwise of the referendum proposal to establish a First Nations Voice to Parliament. The objective of this article has been to consider the level of deliberation encountered during the referendum campaign, using the filter of LeDuc's reference framework, and to consider the implications of participation levels in voting as a measure of disengagement in the referendum process, especially that of indigenous voters in remote communities.

In making its submission to the JSCEM 2022 Inquiry, the Northern Land Council submitted that there was a critical imperative to improve indigenous electoral participation, namely:

With the Prime Minister committing to hold a referendum on the Voice to Parliament within the current term of government, the need to address Aboriginal disadvantage in electoral participation – in terms of both enrolment and voting – has taken on a new urgency. It

*is imperative that all eligible Aboriginal people have the opportunity to have their say.*³⁵

This imperative is critical for Aboriginal and Torres Strait Islanders and all Australians to have their voices heard at elections, whether referendums or general elections. The ongoing decline in voter turnout must be reversed.

What is the answer to reengage with the missing eligible voters?

The proposition of this article is to augment the legislative machinery of referendums with deliberative democratic assemblies in each State and Territory, providing a broader depth of information and debate available to the general public. This would match the voting pattern required by Section 128 of the Commonwealth Constitution, which requires majorities nationally and in a majority of States.

My proposal is incremental and can be implemented without needing a specific constitutional referendum through legislative amendment and funding support to the Australian Electoral Commission. As detailed in my previous article, it simply proposes to establish a series of deliberative assemblies to consider any proposed constitutional amendment after the Commonwealth Parliament has submitted it for a national ballot.³⁶ These deliberative assemblies would be conducted in the capital city of each State and Territory. Each deliberative assembly would comprise at least one hundred eligible electors, selected to be broadly representative via a statistical method and convened over a series of weekends.

According to LeDuc's analysis, an opportunity exists to deepen the 'voice' of deliberation, with elements such as deliberative assemblies that could create a catalyst for broader discussion and public opinion formation regarding any proposed constitutional change. Deliberative assemblies, as proposed here, would be consistent with maintaining the legitimacy of the parliamentary process to initiate constitutional referendums and recognising the authority of the final national and State-by-State vote in determining any outcome. It is time for the Commonwealth Parliament to

³⁵ Northern Land Council, Submission to the Joint Standing Committee on Electoral Matters (submission 423), Inquiry into the 2022 federal election, October 2022, p. 2.

³⁶ Andrew Cole, 'Deliberative assemblies to enhance the constitutional referendum process', *Australasian Parliamentary Review*, Spring/Summer 2022, Vol 37 No 2, pp. 92-101.

acknowledge that changes must be made to the conduct of constitutional referendums. Words matter and voters need to be engaged, especially for proposed amendments to Australia's formal written constitution.

The Federal Government also needs to acknowledge and commit to addressing the concerns raised by groups such as the Northern and Central Land Councils regarding the participation of remote and regional communities in the election process. This response needs to be national in scope, taking note of the range of Federal Divisions with the lowest turnout rates at the 2023 Voice to Parliament Referendum, as detailed in Table 5.

The final word on referendum campaigns rests with LeDuc:

If the overtly partisan motives that drive many referendum campaigns can be limited or controlled, if better question wording and availability of information can lead to greater clarity, and if citizens can be more fully engaged over a longer period leading to higher and more inclusive rates of participation, there is every reason to believe that direct democracy can become more deliberative in practice.³⁷

If that can be achieved, is that not the best outcome?

³⁷ LeDuc, 'Referendums and deliberative democracy', p. 147.

Reviews

Introducing the *Moral Disengagement Handbook*

Steve Davies¹

Author, *Moral Disengagement Handbook*, 2023.

THE NEED FOR A MORAL DISENGAGEMENT HANDBOOK IN AUSTRALIA

In 2023 I led an interactive project with concerned colleagues from a variety of backgrounds that culminated in the production of the *Moral Disengagement Handbook* (the Handbook). The Handbook started life as article. In the course of many conversations, it has morphed into a handbook. That was driven by many factors, but the five key ones were:

- People are not stupid, and most people are good.
- Throughout human history story telling has been a powerful tool for change and, as much as elements within the Australian Government and Australian Public Service might not like it, they cannot stop stories.
- It is absolutely beyond doubt that moral disengagement has literally infected the Australian Public Service. Over the past decade that infection has been normalised and escalated.
- It is practically and strategically completely wrong of the Australian Public Service to continue with its focus on culture and leadership while ignoring what is driving the many problems that beset it. In short, without directly addressing moral disengagement.
- Silence, denial and deflection in the face of moral disengagement (be it conscious or unconscious), is not an option.

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The foundation of this handbook is the lifelong work of Professor Albert Bandura.² There is also a strong connection to Chris Argyris's renowned work on organisational defensiveness and taboos.³

We know that moral disengagement is learned, infectious, rewarded and normalised in the Australian Government. We also know that the typical response to having conversations about matters that show all is far from well ranges from silence through to outright denial, aggression and abuses of power.

The Albanese Government often says that we have a *Public Interest Disclosure Act 2013* (Cth) and a National Anti-Corruption Commission. All well and good on the face of it. However, neither is sufficient to address the morally disengaged behaviours and practices that have been adopted and normalised in our institutions.

Whistleblowers Richard Boyle and David McBride are clear proof of that insufficiency. Then there's the thousands of public servants who remain silent as they are well aware of that people who raise issues within APS agencies are stigmatised and victimised.

The Robodebt Royal Commission starkly revealed that. The tip of the iceberg.

The Australian Public Service Commission, well intentioned as it is, obviously thinks that focussing on public service culture and leadership is the solution. With all due respect to them that approach has proved to be a failure.

The Commission's positive focus on the APS Code of Conduct must also ensure it cannot be misused and abused. Also, the Code of Conduct is necessary, but clearly not sufficient. That can be addressed by underpinning it with the mechanisms of moral disengagement.

So, what are we all to do (and that includes senior officials and politicians), to reveal and describe what is really going on? Whether that be concerns about government policies, the design and delivery of services or the behaviours and practices of departments and politicians?

² See e.g. Bandura, A. (1999). Moral disengagement in the perpetration of inhumanities. *Personality and Social Psychology Review*, 3, 193-209.

³ See e.g. Argyris, C. (1964) *Integrating the Individual and the Organization*, New York: Wiley.

Telling and sharing the stories that reflect and capture what is really going on is essential to restoring the self-efficacy of public servants individually and collectively.

Professor Bandura's mechanisms of moral disengagement provide a lens through which to write such stories.⁴ More than that such stories can be shared and talked about. Sharing and talking about those stories would go a long way to ridding the public service and government of moral disengagement.

Certainly, there will be some politicians who find the content of the handbook confronting. That being said I think the health of the parliament and all of our public institutions is well and truly at a critical point. For this reason, I look forward to sharing the Handbook with the readers of the *Australasian Parliamentary Review* and the broader community.

ACCESSING THE HANDBOOK ONLINE

A full copy of the *Moral Disengagement Handbook* is available on the Rights Resource Network SA website for free download.

Visit

<https://www.rightsnetworksa.com/files/ugd/8cf77c_4dd6b0a01414401a97c9387cbd57ad11.pdf>

⁴ See e.g. Bandura, A. (1999). Moral disengagement in the perpetration of inhumanities. *Personality and Social Psychology Review*, 3, 193-209.

Dreamers and Schemers: a political history of Australia, by Frank Bongiorno. La Trobe University Press in conjunction with Black Inc, 2022, pp. 472. Paperback, RRP \$39.99 ISBN 981760640095.

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Writing a single volume political history of a nation is a particular challenge. As it is a history rather than a chronicle, what is omitted is as important as what is covered. The art is to be discerning and perceptive about what to include and exclude – the work cannot become bogged down in detail but must provide a comprehensive account. It is rather like crossing a broad stream via stepping stones. While achieving this, an author has to avoid superficiality, inaccuracy, and over-simplification. Another challenge is to maintain readability, which readers rightly expect in such a volume, while synthesising a vast amount of material and drawing meaningful conclusions about the nation’s narrative.

In his recently published *Dreamers and Schemers: a political history of Australia*, Frank Bongiorno succeeds in meeting all these challenges admirably. He achieves breadth without sacrificing quality. Indeed, he adds insights and corrects previous misinterpretations.

Another challenge facing Bongiorno is that the nature of ‘history’ has changed, with traditional accounts of Australian history as a Whiggish story of progress and achievement being challenged by those who have explored previously ignored racism, discrimination, and gender inequality. He seamlessly integrates these new perspectives to produce a less celebratory, more balanced account that remains refreshingly objective.

The book begins ‘in deep time, amongst indigenous people who lived on this continent for millennia, and ends in the age of COVID-19, the latest of many external shocks to

affect Australia's political system'. It tries to 'capture the promise and possibility that Australians have seen in political life over the course of their history'.⁵

In a defence of politics echoing that of Bernard Crick, Bongiorno says that he is telling the story of a political system that has adapted to challenges:

But it has not done so through some automatic mechanism, nor in a way that that benefits everyone equally. The durability of the political system has relied on people capable of making it work, and that has demanded ingenuity, ambition and – when politics has been at its best – imagination and creativity.

It has been a politics of 'ideals, visions and dreams as well as of roads, bridges and electric wires. Of dreamers and schemers'.⁶

As well as being authoritative history, *Dreamers and Schemers* is extremely readable. Bongiorno has a fluent, elucidatory, compelling style that keeps the narrative moving. My only complaint is that he occasionally drops into colloquialisms, such as a 'piddling' amount, which I find jarring.

Dreamers and Schemers establishes Bongiorno as one of our greatest historians.

⁵ Frank Bongiorno, *Dreamers and Schemers: a political history of Australia*, La Trobe University Press, 2022, pp. 4, 5.

⁶ Frank Bongiorno, *Dreamers and Schemers: a political history of Australia*, pp. 3, 4.
