

BICENTENARY OF THE LEGISLATIVE COUNCIL

SEMINAR 3

THROUGH THE HOURGLASS: PARLIAMENTARY DEMOCRACY YESTERDAY, TODAY AND TOMORROW

Monday 9 December 2024

Tuesday 10 December 2024

Day 1

The Council in Retrospect: Stories from two centuries

Monday 9 December 2024

INTRODUCTORY REMARKS

Mr DAVID BLUNT [Clerk of the Parliaments]: Good morning, everyone, and welcome. My name's David Blunt. I'm the Clerk of the Parliaments, and Clerk of the Legislative Council. It's a great pleasure to have you all join us here today for this very special occasion, the final in our series of conferences, to contribute to the scholarly works that record the history and development of both the Legislative Council and our parliamentary democracy here in New South Wales. I invite the President of the Legislative Council, the Hon. Ben Franklin, MLC, to open proceedings.

The PRESIDENT [The Hon. Ben Franklin]: Good morning, and thank you, David, very much for that welcome. Before we begin, I'd like to acknowledge the Gadigal people of the Eora nation as the traditional custodians of the land upon which we all meet today, and I pay my respect to their Elders past and present and thank them for their custodianship of this land for many tens of thousands of years. It is my great pleasure to welcome you all here today to the Parliament of New South Wales for the third and, as David said, final iteration in the series of bicentenary conferences commemorating the 200th anniversary of the Parliament of New South Wales. My name is Ben Franklin. I'm the President of the Legislative Council and one of two Presiding Officers here in the New South Wales Parliament, alongside my good friend Greg Piper, the Speaker of the Legislative Assembly.

There are many distinguished guests with us here this morning, and if I named them all it would take me, I think, probably until lunchtime, so I shan't do that. But there is one that I particularly want to acknowledge and welcome today, and that is the new Japanese Consul General to New South Wales, Mr Yamanaka. You are very welcome here, sir. It has been quite the year, working out how to appropriately acknowledge the bicentenary. To sum up a history that has been incredibly successful but also at times complex and challenging has been a difficult task. From the Legislative Council's humble beginnings with the appointment of its first five members, through to the robust and representative institution that we see today, this year we've tried to reflect honestly on the Legislative Council's past, to celebrate all that we've achieved, and to imagine a future with a strong and vibrant Parliament truly representing the society that surrounds it.

It's been an incredible privilege to serve as the President of the Legislative Council during this milestone. Now that we're nearing the end of the year, I've had cause to reflect on the year that was and to think back on some of the highlights from our celebrations. We wanted to make this bicentenary open and inclusive, looking at all aspects of our history, but with an eye squarely on the future. To that end, I was particularly proud of our seminar series, which brought together Council members past and present, along with other notable panellists, for fascinating conversations exploring the important chapters in the Council's development and its representation of diverse New South Wales communities. We explored groundbreaking moments in the history of the Council. We examined 40 years of LGBTQIA+ reform in New South Wales. We shared personal journeys and stories of members from culturally and linguistically diverse communities, and, importantly, we held an open conversation with Elders of the Wiradjuri community and esteemed historians about the first use of martial law against Aboriginal people in Bathurst.

As someone who grew up in a regional town, I was delighted that we also made the decision to take the Parliament to six locations across the State, ensuring our regional communities also played a significant part in celebrating our bicentenary. We travelled to Lismore, then Port Macquarie, Bathurst, Batemans Bay, Armidale and finally Wagga Wagga, to host a series of youth forums and public speaking competitions, with the winners of each region brought to Sydney to compete in the State final in the Legislative Council Chamber on the very day of our 200-year anniversary. It was a genuinely profound moment for those young adults, and can I say, the future is very bright should they choose to enter public life. You will hear from a couple of them tomorrow.

As I'm sure many of you would have seen as you entered the Parliament today, our *Legacy & Evolution* exhibition charts the Council's evolution and presents an educational and highly engaging perspective about Australia's oldest Legislature. As part of the launch of that exhibition, we held a luncheon to showcase the events of the past year, with guest speakers who had directly contributed to the celebrations. Of course, the highlight of the day was a visit to the New South Wales Parliament by His Majesty King Charles III, a truly special moment in our Parliament's history. His Majesty delivered a heartfelt address on the importance of representative democracy and its need to evolve to remain fit for purpose to serve in today's diverse societies. His Majesty also

graciously presented the Legislative Council with a beautiful symbolic gift, an hourglass, which is now proudly displayed in our Chamber and which served as the inspiration for our final conference.

A particular highlight of His Majesty's visit was being able to show him our latest acquired artwork, proudly displayed in the Fountain Court. We had the pleasure of commissioning this work, by Gumbaynggirr and Bundjalung artist Kim Healey, and what she's created is truly spectacular. I'd encourage you, if you haven't already, to take a moment over the next two days to pop upstairs and listen to the documentary about the making of that work and to take it in in all its glory. And while you're at it, poke your nose into the LC Chamber as well and ask one of the attendants to show you the hourglass.

But that wasn't all. We held an open day with over 3,000 members of the public. We commissioned a three-movement piece of music from the Conservatorium of Sydney. We hosted an international conference for the Commonwealth Parliamentary Association. We've had dinners and exhibitions, lectures and workshops. Which brings us to the conference series, a perfect platform to reflect, celebrate and imagine, and I'm delighted to be joining you to officially launch these proceedings today.

The first conference, in 2022, explored the factors in the colony in 1823 that prompted the agitation for a curb on the Governor's powers and autocracy. The second, last year, explored the adoption of the New South Wales Act and the establishment of the New South Wales Legislative Council and the Supreme Court. And our final conference, today and tomorrow, Through the Hourglass, will draw on a panel of some of the most expert historians, academics, legal minds and members of Parliament to provide a scholarly legacy that will be drawn on by members, officers and the parliamentary community well into the next 200 years that lies before us. Today, we'll look at the entire 200 years of the Council, and tomorrow we will delve into the future of the Council as we explore fascinating topics like lowering the voting age, artificial intelligence, and democracy in the Asia Pacific.

I'm particularly looking forward to moderating a panel of young leaders of tomorrow, many of whom I met through the course of the bicentenary celebrations, to gain their perspective on the future of democracy both in New South Wales but also more broadly around the world. But enough of me—I'd now like to introduce Mr David Blunt, AM, the Clerk of the Parliaments, and Ms Jenelle Moore, the Clerk Assistant and Usher of the Black Rod, as we revisit the first and second bicentenary conferences before we commence today's exploration of the 200-year evolution of the Council in just one day. It is my absolute pleasure to declare officially this conference open and to welcome you all. I hope that you have a very successful and enlightening conference. Thank you for being here.

Mr DAVID BLUNT: Thank you very much, Mr President. My colleague Jenelle and I will indeed shortly be providing a recap of the first two conferences, but before we do so I have just some very brief housekeeping remarks. Firstly, each of the sessions over the next two days will be held here, in the Theatre. We will endeavour to have a question-and-answer session of approximately 15 minutes before the end of each session, so please make sure you think of and save up your questions for that 15-minute period. If you wish to ask a question, simply raise your hand and wait for a roving microphone to arrive so you can introduce yourself and ask your question. For those online, please write your questions in the comments function on the screen and our moderators will get them to the emcees to read out in that Q and A session.

For those of you sitting in one of the two front rows, you may see a number of people with handheld cameras make their way towards the stage at different times during the day. Please don't be alarmed. They're simply capturing images and footage of the proceedings. We'll be breaking this morning at 11.15, and Council staff will be on hand to escort you upstairs to the Fountain Court for morning tea. We do have the benefit of an outstanding catering service here at Parliament House, and we hope you'll really enjoy those morning and afternoon teas over the next couple of days.

I understand that some of you have purchased the dining package, which will provide you with lunch today and tomorrow in the Members' Dining Room. Those of you who have purchased the dining package, your passes should have a gold sticker on them. Those with special dietary requirements should also have an additional black sticker on your pass. Please make sure you make yourself known to the catering staff if that's the case. For those who haven't purchased the dining package, there is a public cafe off the Fountain Court where you might be able to get some lunch or, of course, there's lots of eateries around not far from Parliament, such as down at the MLC Centre.

We'll return after lunch at 2.15 for what promises to be a really fantastic session with Antony Green and former member of the Council the Hon. Dr Peter Phelps, before we end the afternoon with a members' panel. Both promise to be real highlights of the day. In order to ensure that each session runs to time, we ask that everyone's in their seats approximately five minutes before the scheduled start time. Public bathroom facilities are found outside in the foyer, upstairs in the Fountain Court, on the northern side. That's over on the Legislative Assembly side of the Fountain Court. If you need assistance with anything at all over the next two days, please speak with

one of our staff from the Black Rod team, who are stationed in the foyer. Water is also available in the foyer. The main exit is at the rear of the Theatre, and there's the exit to Macquarie Street there. There's also an emergency exit to my right. In the extremely unlikely event of an emergency, please follow the instructions of the parliamentary staff.

Can I begin the recap of the last two years of conferences with a show of hands: Who has been here with us for both conferences so far? A round of applause for all of you. And who has been here for just one of the two previous conferences? Again, thank you for coming back. Thank you for returning. The intention of the first conference, held over two days in 2022, was to explore the context—that is, the state of the colony in the 1820s—that led to the establishment of the Legislative Council. The conference commenced by considering the larger cultural context of the landscape upon which the Parliament of New South Wales is now located, through a reading of country that is a visual verbal essay, delivered by Dr Danièle Hromek. This explored the landscape itself and the relationship and responses of Aboriginal communities to this place. Included were narratives handed down orally from deeper time, as well as more contemporary understandings from community representatives, all accompanied by stunning visual images of the landscape. So we really did try and start at the beginning of the story.

Ms JENELLE MOORE [Usher of the Black Rod]: The day continued with a conversation between Dr Paul Irish, historian, archaeologist and director of Sydney firm Coast History and Heritage; and Ray Ingrey, chairperson of the Gungahlin Foundation, an organisation leading language, cultural and research activities within the La Perouse Aboriginal community. Ray and Paul, in conversation, discussed their research, which links together the oral histories passed down by Ray's people, and written historical records, to explore the lives of Sydney's coastal people. What was the story they told?

Following the initial tragic impact of smallpox, which decimated the local Aboriginal population shortly after 1788, the story evolved into one of strategic relationships between the community and early governors and members of Parliament, including members of Parliament who proved to be valuable allies throughout the nineteenth century, ahead of the misguided and damaging policies implemented during the twentieth century. Notwithstanding the ongoing legacy of those policies, the story they told was one of extraordinary ingenuity and resilience of Sydney's coastal people.

We then concluded the first day with an esteemed panel of academic experts, who explored the inquiries of John Thomas Bigge, who arrived in New South Wales in 1819 to report to Britain on every aspect of the colony. Professor Kirsten McKenzie, from the University of Sydney, explained that Bigge's inquiry was part of a huge stocktaking investigation undertaken by the British government across the Empire to foster good governance and prevent the revolutionary upheaval it had seen engulf America, France and Haiti. Kirsten observed that while Bigge's commission into New South Wales proved to be transformative, it was designed to control change, rather than unleash it.

Associate Professor David Andrew Roberts, from the University of New England, then took us through the mechanics of the Bigge inquiry and the monumental body of evidence left in archives until relatively recently, owing to its political sensitivity. Dr Matthew Allen, also from the University of New England, spoke to the role of public opinion and gossip, first in informing the decision to send Bigge to New South Wales and then its influence on the views that Bigge formed while here. Finally, day one drew to a close with Professor Lisa Ford of UNSW underscoring an important point, that while the Bigge inquiry preceded the establishment of the Council, a Legislative Council was not Bigge's idea. He had a different model in mind that would have seen laws verified by an Attorney General, a Council comprised of the colony's magistrates and laws passed by majority vote. David, would you like to explain what happened on day two?

Mr DAVID BLUNT: Thanks, Jenelle. Day two of the conference was delayed for some weeks due to the death overnight, between what was to be days one and two, of Her Late Majesty Queen Elizabeth II. So when the conference finally reconvened, some weeks later, the first session was a somewhat eclectic set of papers exploring how politics was practised by those possessing political power in the infant colony prior to the establishment of the Legislative Council and, on the other hand, the reality of life for those who were powerless. Kirsten McKenzie came back again. She talked about how politics was done by the powerful, largely through the press and the courts. She used scandal as her theme, thereby providing a reason to tell some rather racy stories.

Penny Russell and James Dunk were more concerned with the reality of life for the powerless, Penny Russell's focus being on the extreme violence, including sexual violence, experienced by women. James Dunk also explored a dark theme: the extraordinary rate of suicide in the infant colony. Like Penny Russell, he drew on impeccable primary sources—namely, the reports of coronial inquiries, as well as contemporary press reports. He painted a bleak picture and explored whether what was occurring was a spreading contagion, the consequences of

dissipation, or merely the consequences of a regime of increasing terror towards the convict population, particularly in the post-Macquarie era.

We then went on to explore the topic of executive power, unrestrained and restrained. Reverend Dr John Harris and Caleb Cugley took us on a more in-depth appraisal of the same Macquarie era and its direct aftermath. Reverend Harris provided an essentially sympathetic account of Macquarie, his achievements and motivations, including a motivation based on benevolence and a commitment to the reformation and restoration of convicts—the so-called emancipists. Nevertheless, he did not shy away from recognising the eventual, perhaps reluctant but ultimately tragic and brutal response of Macquarie to frontier conflict with Aboriginal people. Caleb then explored the extent to which it could genuinely be said that the establishment of the Legislative Council was or was not designed to be a restraint on the sort of executive power exercised by Macquarie.

Ms JENELLE MOORE: Next followed Westpac group archivist and historian Kim Eberhard, who spoke to the role of Governor Lachlan Macquarie as architect of the now famous holey dollars and dumps, bringing Australia's very first currency to the colony. Kim also discussed how disputes that occurred over the multitude of different currencies circulating in the colony prompted the Governor to proclaim sterling as the chosen medium of monetary exchange, and this later led to the establishment of the Bank of New South Wales.

This brought us to one of my favourite sessions, with author Jessica North, who opened our eyes to the volume of unwritten histories that are yet to be told from the early years of New South Wales—tales of women of influence, clever women, resilient women and bold women. But, as Jessica pointed out, most people have never heard of them. Jessica shared the stories of Esther Abrahams, a convict single mother who became the first woman to manage a large agricultural estate—note that it was not Elizabeth Macarthur; Susannah Kable, the subject of the first civil law case in Australia; Sarah Wills, the instigator of the first prenuptial agreement; and Mary Ann Piper, the child of convicts who became a society queen, promoting Australia around the world. Speakers like Jessica, Ray, Paul and Danièle underscored how important it is that the perspectives of women, Aboriginal people and other groups previously silenced in history are now being shared.

Mr DAVID BLUNT: The first conference concluded with a keynote address from Ita Buttrose. Reflecting on her own personal connection with Vacluse House, and thereby with the legacy of W. C. Wentworth, she enthralled the audience with the story of Wentworth's clashes as both a newspaper owner and a barrister with Governor Darling. Ms Buttrose's presentation was both insightful and inspiring in its clarion call for the importance of both the free press and an evolving parliamentary democracy.

The second conference, this time held over two consecutive days in late 2023, was focused on the legislative instrument that facilitated the creation of both the Legislative Council and the Supreme Court—namely, the New South Wales Act 1823, an Act of the British Parliament. In some ways, however, the conference began by filling a gap in the earlier conference, which had explored the context. Stephen Garton addressed the myriad important linkages between New South Wales and other parts of the British Empire, with a particular emphasis on trade, links with Calcutta and experimentation with various models of colonial governance across the empire. These models both influenced and were, in turn, influenced by the establishment and later evolution of the New South Wales Legislative Council and, later, the Assembly.

The second paper was delivered by Frank Bongiorno. I'm a little bit nervous summarising Frank's presentation, given he is here in the audience and is about to take the stage and will have a right of reply. Suffice to say, Frank's extremely erudite paper argued that the Legislative Council caused few ripples and initially was largely peripheral to the real business of politics in the colony, which instead played out in grand banquets, public meetings, the courts and the press, petitions, and correspondence sent back to London. Frank situated the rationale for the establishment of the Council not in any ideas of representative democracy, or even restraint on Executive power, but rather as a response to anxiety about the lawfulness of the existing order in the colony. It was not until the 1830s and 1840s that the Council would become a place of deliberation and political importance. I hope I've done you justice, Frank.

Ms JENELLE MOORE: Then followed a session with esteemed barrister Bret Walker, SC, and former Clerk of the Parliaments Lynn Lovelock. Lynn painted a picture of the passage of the bill through Parliament, debated across several days and in the early hours of the morning, and polarising opinion in the House to the extent that it reflected the prevailing and sometimes disparate attitudes of members towards law, order and punishment. We learnt that, following a rollercoaster journey, the Act was finally passed as a compromise in the early hours of the session on the same day that Parliament was prorogued.

Bret Walker then explored the significance of the 1823 Act. I say "significance", but Bret actually provided a rather damning indictment of the Act, pointing first to the provisions relating to the Council—which he described as entirely non-representative and anti-democratic, given the Council was merely a check on the Governor and the members were appointees who held other positions in the colony and were all men—and then

to those establishing the Supreme Court, which omitted the rather key principle of trial by jury, amongst other things.

Bret concluded, "There was no conflagration started by anything that constituted the spark in 1823. One is reminded that in the days before safety matches, you did have to generate a spark which would actually catch fire. Many a spark would not produce anything." I have to confess, that rather challenged the whole concept we'd come up with for the conference. Of course, Bret's point—thankfully made at the end—was that the Council established in 1823 bears no resemblance to the demonstrably representative, robust and democratic institution that we enjoy today, so it was a fair point made, indeed.

David Andrew Roberts from UNE then returned for our second year and provided some of the broader global and political context that underscored Lynn and Bret's observations. He noted that the form of the Council agreed to was actually a cautious compromise in the age of revolution. With lawmakers in the UK having learnt from the upheaval taking place elsewhere in the world, the Council was designed to both temper the potential for tyrannical Executive power and guard against the dangers of representative democracy. In the end, it appeased few, and this is what quickly prompted the evolution of the Council, which we will hear more about today.

Mr DAVID BLUNT: Once again, I'm a little nervous, as Keith Mason is here in the audience and will also be taking the stage shortly. However, one of the real delights of our second conference was that it was essentially a co-production between the Legislative Council and the Supreme Court, both institutions having been established in 1824 as a consequence of that 1823 Act of the British Parliament. We went over to the court in the afternoon and—over in the Banco Court, surrounded by the portraits of the Chief Justices since Francis Forbes—the Chief Justice, together with Keith Mason and Virginia Bell, entertained and informed us all. Keith Mason focused on Francis Forbes, the instigator of the Legislative Council and the first Chief Justice of New South Wales. Chief Justice Andrew Bell introduced each of the Chief Justices of the Supreme Court, and Virginia Bell focused on the role of women in the court.

In some ways, the Supreme Court effectively did last year what we're seeking to do this morning—that is, cover 200 years of history in a riveting and insightful way over just over an hour and a quarter. No pressure, Frank and Rodney. Of course, the Legislative Council and the Supreme Court were not the only great institutions of government established in 1824. So, too, were the Colonial Treasury and the Auditor-General. Treasurer Daniel Mookhey set the scene for the establishment of the Treasury, including the appointment of William Balcombe as Treasurer fresh from his role as jailer of Napoleon on Saint Helena. The current Treasurer also highlighted a number of connections, not only via William Balcombe and Saint Helena, with the Atlantic slave trade and the East India Company. It was indeed a small and connected world.

Carol Liston went on to elaborate on the role of money and currency in the colony, along with some of the individuals who were instrumental in the regulation of the infant economy and its financial institutions. The NSW Treasury has since published a delightful history, a collection of essays entitled *Walking a Tightrope: Milestones and moments in the history of NSW Treasury*, edited by historian Paul Ashton. I do commend it, including the essay on the Lang Plan 1931 by Frank.

Ms JENELLE MOORE: Following on from the establishment of the early Treasury, we learn that where you have a Treasury, you must also have an auditor. The esteemed Margaret Crawford, then Auditor-General of New South Wales, described the early origins of the Audit Office and how legislative changes have enabled this integrity body to help Parliament hold government accountable. Margaret called on all of us to be fierce in our defence of our system of government and to talk loudly and often about Parliament and the public institutions that support integrity, transparency and accountability.

Shifting from the official face of all those institutions to the personal, we also enjoyed a fantastic session with author, journalist and historian Sue Williams, who brought to life the trials and tribulations of the first five members of the Council. Sharing some of the personal stories that shaped those men, Sue described them as schemers and dreamers navigating broken hearts, split loyalties and the pressure of expectation. Sue observed that, while there is no doubt that those first members were extremely privileged, their lives were inherently difficult, with each man trying to balance their personal and professional lives and one often suffering at the expense of the other. Interestingly, Sue demonstrated that those who had wives were often much better off than those who did not because the women were selflessly supportive of their husbands.

Mr DAVID BLUNT: That brings us to the end of our recap of those first two conferences. We hope that they have left a legacy of some new insights into early colonial history and the establishment of the Legislative Council. If you haven't already done so, take the opportunity to pick a copy of the conference proceedings which have been published as a permanent record. So enough of the last two years; on to today.

A WHIRLWIND HISTORY OF 200 YEARS OF PARLIAMENT IN NEW SOUTH WALES

Professor RODNEY SMITH, Professor of Australian Politics, University of Sydney

Professor FRANK BONGIORNO, AM, Professor of History, Australian National University

Mr DAVID BLUNT: Our first panel today will take us on a lightning-fast journey through 200 years of the Legislative Council. To introduce and explore those 200 years of history in greater detail, it's my pleasure to introduce our first two speakers of the day, Professor Rodney Smith and Professor Frank Bongiorno.

Rodney Smith is Professor of Australian Politics at the University of Sydney. He is a former president of the Australian Political Studies Association. He's written numerous academic articles, chapters and books of aspects of New South Wales politics, including the Legislative Council. Notably, he's the author of the book *Against the Machines: Minor Parties and Independents in New South Wales, 1910-2006* and is co-editor of the book *From Carr to Keneally: Labor in Office in New South Wales 1995-2011*.

Frank Bongiorno, AM, is Professor of History at the Australian National University and distinguished fellow of the Whitlam Institute at Western Sydney University. He is author of *Dreamers and Schemers: A Political History of Australia* and co-author of *A Little History of the Australian Labor Party*. Frank is president of the Council for the Humanities, Arts and Social Sciences, and a fellow of the Academy of the Social Sciences in Australia, and the Australian Academy of Humanities. He is immediate past president of the Australian Historical Association and former head of School of History at ANU. We are really fortunate to have such outstanding speakers with us this morning. Please join me in welcoming Professors Smith and Bongiorno.

Professor FRANK BONGIORNO: Thanks so much, David. I'd like to associate myself with the acknowledgements of the Gadigal people of the Eora nation, and I pay my respects to people, Elders and country. I'd like to thank the Hon. Ben Franklin, as President of the Council, Mr David Blunt, AM, as Clerk of the Legislative Council and Ms Jenelle Moore, as Usher of the Black Rod, and the Legislative Council team, for the opportunity to participate in what I think has been a wonderful series. Congratulations on bringing us through to the final instalment.

The New South Wales Legislative Council began as a nominated body in 1824, as we just heard. It had a very brief interregnum of really just a little bit more than a dozen years, between 1843 and 1856, when it was two-thirds elected and one-third appointed, and then had a long career as an appointed, or nominated, upper House in a bicameral Parliament. Indirect election by parliamentarians was introduced in 1933, and popular election only in 1978. The Legislative Council of New South Wales is today a modern Chamber that performs a role often associated with upper Houses in bicameral Parliaments on the Westminster model. It acts as a genuine house of review, helped, I think, by an electoral system that militates against major party domination.

What I want to show today is that the institutional design of the New South Wales Parliament during the main period in which I'm going to be discussing—that's 1856 to 1933—mattered enormously, not only for the Parliament itself—here I'm sort of sticking my neck out a bit—but, I think, for the wider political culture of New South Wales. I'm going to make that case in part through comparison with my home State, Victoria, which adopted a very different design from the outset and retained the essentials of that design deep into the twentieth century, as, of course, the New South Wales Council did with respect to its own original design.

When New South Wales adopted responsible government in the mid-1850s, its Constitution provided for a nominated upper House. The story of its adoption is dominated, I think, to a great extent by the controversy that attached to William Charles Wentworth's suggestion of a colonial nobility that would be created to inhabit it. Or, to put it more accurately, that story is dominated by Daniel Deniehy's famous ridicule of the idea of a bunyip aristocracy. The term is still with us, isn't it? But Deniehy's ridicule has unfortunately overshadowed the reality that Wentworth was actually grappling with a genuine problem.

Following Westminster precedent, the idea that the Parliament should be bicameral certainly held sway. There was some flirtation with some groups in New South Wales with the idea of a unicameral Parliament. They accepted, certainly by the mid-1850s, it was going to be bicameral. But it was unclear what the role of a colonial upper House, colonial upper Chamber, would be in such a system. There are no lords. There are no bishops of an established church. What would it be? What would it do? What was it for? How should it be constituted? If, as some argued, it was to function as a check on hasty legislation, who was to judge what would be considered hasty or ill-advised?

Those who called themselves liberals in the colony generally favoured an elected Council, while conservatives tended to favour a nominated one. Even once responsible government came, ministries occasionally

introduced bills from time to time designed to make the upper House elective, but these, without exception, failed. New South Wales settled on an upper Chamber whose members would be appointed by the Governor on the nomination of the Premier. Liberals worked out soon enough, to their relief, that such a Chamber would be amenable to the pressure from the public and the government of the day. They had only limited interest—once they'd sorted that out and that had dawned on them—in actually changing it. That is, I think, why it survives through to the 1930s in that original form.

The early, rather conservative members of the Council were also in a particularly precarious situation—a point that's often forgotten. Under the original Constitution, the first Council was only to be temporary with a five-year life span. In 1861 new members would be appointed, and they would have their positions not for five years but for life. So here was a grand opportunity for an astute government to direct matters in a way that would suit it. It was a kind of axe, if you like, hanging over the original Council.

Now, the hour called forth the man, Charles Cowper, although he was already experienced in parliamentary and public affairs. He'd been a member of the original, partly elected Legislative Council back in 1843. Cowper would go on to become five-time Premier of New South Wales and after Wentworth, I think, was the most formidable politician of his time. He was ostensibly a supporter of an elected Legislative Council. One of his ideas was that you'd have manhood suffrage—that is, all men would be able to vote—but that there would be a fairly stiff property qualification for those qualified to actually sit in the upper House.

He also came to see in that idea a danger to his own power, for it might lead to more radical or democratic liberals getting voted in: politicians who shared the views of men such as Deniehy, who I've already mentioned, as well as Henry Parkes, who will be familiar to most of you. Cowper was, after all, a conservative liberal, and he saw the chance to use the 1861 expiry of the old Council membership to make the Council more suited to his own purposes. The Council in its early years had been claiming the right to alter money bills, budgets or appropriation bills, and Cowper wasn't having any of that. Such a claim, if conceded, would undermine the authority of every government, including his own. But Cowper, with his colleague John Robertson, had land legislation that the Government was desperate to get through the Parliament: the so-called "selection Acts" which would permit farmers to take up land currently occupied under pastoral leases by, if you like, the old squattocracy.

In order to achieve that goal of land legislation—popular with voters, overwhelmingly supported by the Legislative Assembly—Cowper was determined to clean out the Council, ridding it of its most intransigent elements but ensuring that the cure would not be worse than the disease; that is, he didn't want a Council made up of men of the likes of Deniehy and Parkes. The Premier, of course, could not do all this unilaterally. The Governor at the time, Sir John Young, was, to all intents and purposes, a representative of the Colonial Office in London, appointed by and reporting directly to the Secretary of State and a de facto guardian of the interests of the British Government. He was a bit like a British diplomat in Australia. Of course, very significant among the duties of such a man was the protection of British investors.

He had instructions from London to reappoint the old Council, and he had already refused a request from Cowper for 15 new members. But under the system of self-government or responsible government established in the mid-1850s, the Governor was also the representative of the Crown. He was a sort of monarchical figure in a constitutional monarchy, so he was expected to act on the advice of his New South Wales Ministers who were, in turn, responsible to the Parliament—the system that we're still familiar with today. By Westminster convention, it was the lower House, the Assembly, from which the Executive derived. It needed to have the confidence of the Legislative Assembly, even if a Cabinet might include members of the Legislative Council. But the Constitution of New South Wales also gave the two Houses very nearly equal powers.

The old Council was due to expire on 13 May 1861. Just before this date, the Council amended Cowper's and Robertson's land bill to protect the tenure of large landholders and sent it back to the Assembly. The Government, which rejected these amendments from the Council, then just had the Assembly vote on it; of course, the Assembly voted in favour of the Government's version of the land bill. Cowper then asked Young to appoint 21 new members of the Legislative Council. You can see how this game worked.

Cowper's methods were subtle. His biographer, Alan Powell, says he had no intention of allowing these 21 members actually to sit in the Council. Rather, the object was to provoke a resignation of the Council President and a walkout of the other conservatives—and they did their duty, as far as Cowper was concerned. To prevent those new nominees from being sworn in, 20 of them did indeed walk out of the Legislative Council. Cowper's aim was to discredit the old Council with both the Assembly and voters so that the Governor would be unable simply to reappoint them to the newly constituted Council in 1861. When the new members of the Council were selected by a committee that also included William Charles Wentworth, just back from England, Cowper got the appointments that he wanted.

What did he want? He wanted men—and it was all men that we're talking about in this period, as I'll mention later—liberal enough to pass his land bills but conservative enough not to give him the kind of trouble in the Council that people like Parkes and Deniehy were already giving him in the Assembly. He was walking a tightrope, but it was masterly politics. It is no wonder they called him Slippery Charlie. Wentworth also came up with an informal agreement, as a part of this process, that swamping in the future would only occur if, after a dissolution of the Assembly and an election over a vital issue like a land bill, the Council continued to stand in the way of a bill. What we can see here is the emergence of a set of rules or conventions—it was called the gentlemen's agreement—by which these two Chambers would relate to one another.

Cowper had every reason to like this particular idea. With the help of Wentworth as the new President of the Council, he got his land bills through soon enough. He even managed to see off the public clamour for an elective Council through delaying tactics, so he retained the ability or the right to nominate new members of the Council—something he wanted to keep as he had seen how well it could work. Cowper's tactics had resulted in a complete triumph. He had got rid of the most conservative Council nominees. He had established the supremacy of the Assembly—and the Government, of course—over the Council. He had preserved a nominee Chamber composed in a way that posed no threat to his Government or, indeed, any future government. The Council, it seemed, could be a nuisance to a government, but it could not be a destroyer. Cowper had headed off any prospect of an elective body and so set the course for the next 70 years of parliamentary history in New South Wales.

He'd also set a precedent, though, for how future governments would deal with a Council that stood in the way of its program. On screen you have Henry Parkes, the great factional and then Free Trade leader of the late 1880s and 1890s; and there is his great rival of the 1890s, George Reid. It is Reid I would like to talk about here. Reid succeeded Parkes as Free Trade Party leader and became New South Wales Premier in 1894. With the divided Protectionist Opposition, Reid had a safe majority, but he also gained the support of the Labor Party, founded just a few years before. Reid's program included the reduction of tariffs on most imported goods and their replacement as a source of government revenue by land and income taxes. Now he ran into Council obstruction; landowners did not want land or income taxes. Reid argued that there were constitutional principles at stake. The Council was seeking to dictate to the Government and to the Assembly on financial policy, which he thought a breach of the Westminster convention that upper Houses should not seek to control public revenue.

Reid responded to this obstruction by calling an election, which he won overwhelmingly. The Council's position was now weaker, but it still sought amendments to the income and land tax proposals, which Reid found unacceptable. A conference between managers of the two Chambers went on over four days in November 1895, but the Council still refused to give way. There was little progress during the first two days of that meeting but then, over the weekend, Reid went and visited Government House. He didn't really do anything else; he just visited Government House. What was he up to? Reid, of course, with his considerable frame, was dropping a hint. If the Council refused to budge, his visit suggested, he would ask the Governor to appoint enough new members to force it to budge—in other words, to swamp it. It was body language, if you like; he needed to say nothing.

All of a sudden, on day three, the Council started to act more reasonably and compromises were agreed—hey presto! Reid had his taxation bills through. His methods, you'll notice, were not so very far from Cowper's several decades earlier. Just as Cowper, in the early 1860s, had tried to avoid giving too much encouragement to the radicals of his day, in the 1890s Reid had no intention of pressing a more aggressive approach to the Legislative Council's powers—really trying to reduce their powers—which is, of course, what the Labor Party, his allies, would have liked. So they're always managing both the Council on the one side and the radicals to their own left on the other. In any case, Reid managed to get the Coal-mines Regulation Bill and the Factories and Shops Bill through the Council as well. Labor disliked Reid's acceptance of Council amendments in each case, but something was better than nothing. Labor's experience of Legislative Council obstruction, during this 1890s era of their support for the Reid ministry, meant that by 1898 the New South Wales Labor Party had adopted abolition of the Legislative Council as the first plank in its fighting platform.

The persistence of an appointed upper Chamber, I believe, had significant effects on the political culture of New South Wales that are best indicated through a comparison with Victoria. The southern colony had an elected Legislative Council, with a very high property qualification both to vote and to stand. Indeed, it was much higher to stand than to vote, but they were both very high. All up, there were only 10,775 qualified voters in the colony in 1856. That was a colony of 325,000 people. By way of contrast, the Assembly had manhood suffrage as early as 1858. Later reforms would reduce the Council thresholds mildly, but the upper House was a stronghold for the wealthy in Victoria for about two decades after responsible government, and it remained a conservative bulwark until at least the middle of the twentieth century. The Council could not be dissolved, and its obstruction could not be overcome by any constitutional means.

Victoria had two great constitutional crises in the nineteenth century that resulted directly from these arrangements. You will notice that there was no equivalent of these in New South Wales. The first was between

1865 and 1871, triggered by the 1865 budget of James McCulloch. The ministry tacked a tariff proposal onto its budget bill and the Council responded by refusing to pass supply; it blocked supply. Through the second half of the 1860s, there was continuing conflict between the Assembly and the Council in Victoria. Elections would be called and won handsomely by the ministry, which gained overwhelming endorsement from voters each time, and the Council paid absolutely no attention to the results of those elections. Unlike the New South Wales Council, it could not be swamped, so it could not be coerced. There were overflowing protest meetings. Partisans abused one another in the streets. Death threats were issued.

A visiting Englishman, Charles Dilke, who was there visiting during this crisis, wrote, "Class animosity runs much higher, and drives its roots far deeper into private life in Victoria than in any other English-speaking country I have seen. Political men of distinction are shunned by their opponents in the streets and clubs. I have seen men in Victoria refuse to sit down to dinner with a statesman from whose views on land questions they happened to dissent." George Higinbotham, McCulloch's fiery Attorney-General, helped turn the controversy into one about the rights of self-government after the Colonial Office dismissed Governor Charles Darling on the grounds of an alleged favouritism towards the McCulloch ministry.

The period 1877 to 1881 saw another great constitutional crisis. The trigger this time was an effort by the liberal Government of Graham Berry to place payments of members of Parliament on a permanent basis. He again used the method of tacking this proposal onto a budget bill, and this conflict, again, raised the spectre of civil strife. On one day early in January 1878 called Black Wednesday, the Government dealt with the problem of having no money by sacking senior public servants and even some judges. The conflict continued for years. Again, the Assembly was unable to modify the Legislative Council's formidable power, and the latter Chamber would go on to mutilate or defeat many a bill in the decades ahead and not only during this crisis.

To take just one example, Victoria was a colony with a vigorous women's suffrage movement, but it had to wait until 1908—the last of the States—before it granted the vote to all adults, and that was largely to do with Legislative Council obstruction. The institutional design of Victoria's Parliament, with its popularly elected lower House and rigidly conservative upper House, promoted party organisation with a modern look about it a good decade before parties came to New South Wales—1877 in Victoria compared with 1887 here. New South Wales retained until then what has been called a factional system in which wheeling and dealing and fluidity of allegiance were prominent. I'd argue that this had much to do with the way the New South Wales system promoted compromise and deal-making. Governments not only came and went as groupings formed and then broke up, but the vulnerability of the Legislative Council to pressure produced a wider culture of negotiation and compromise.

Of course, conflicts occurred, but everyone knew that a government had the means of persuasion at its disposal that Councils could only ignore at their peril. They always were threatened with the possibility of being swamped by new members. On the whole, the mere existence of such powers could induce some degree of cooperation, however reluctant, as both Cowper and Reid had demonstrated. In Victoria, there was no such mechanism. The Legislative Council could resist governments completely and indefinitely. The result was a colonial political order subject to periodic crises that reached down into everyday life and social relations. It's hard not to wonder if that also did not help to give Victorian political life its sharper ideological edge compared with the whatever-it-takes culture of New South Wales pragmatism. That's where I'm sticking my neck out.

That the New South Wales Legislative Council remained the nominated body in a fundamentally democratic political culture was a vulnerability too. But when Labor actually began to win lower House majorities from 1910, Council abolition hardly seemed the most pressing issue on the agenda. Labor had only five or six loyalists there who were outnumbered by about 50 others. Indeed, William Holman's failure after 1913, while Labor Premier, to make Labor appointments to the Council so that his party could pursue its abolition became a major point of contention between him and the wider labour movement. It would eventually culminate in the split over conscription, which was followed by Holman appointing 23 conservative members to the Legislative Council to bolster his position.

None of this, of course, did much to add to the legitimacy of the Chamber, that it often obstructed Labor policy between 1910 and 1916. Indeed, it paved the way for the more vigorous efforts, which I'm sure we'll hear about from Professor Smith in a moment, of Jack Lang to secure the abolition of the Council. Did the nominated Chamber have any advantages over a body elected in the manner of the Victorian Legislative Council? The benefits or otherwise of nominated bodies is kind of a dead issue in Australia because we don't have them. It, of course, remains very much alive in relation to House of Lords reform in the United Kingdom.

Very briefly, here are five members of the Legislative Council during the later nineteenth and early twentieth century. Without going into great detail, you can see the kinds of attributes that they brought. Andrew Garran, editor of *The Sydney Morning Herald* and *Picturesque Atlas of Australasia*, had high legal qualifications and was appointed on two different occasions, by Parkes and later by George Reid. John Peden, Challis Professor

of Law at the University of Sydney, brought massive legal expertise to the Legislative Council and was a major influence on legislative affairs, eventually becoming President. Charles Mackellar, a medical doctor, was most famous—or infamous, perhaps—for his role in the royal commission on the decline of the birth rate, but more generally was someone who grappled with the problems of public health and social welfare. There was also Fred Flowers, for the Labor Party, who eventually became President; and Edward Kavanagh, who went on from the Legislative Council to perform major roles within the industrial relations arbitration system and in the Commonwealth bureaucracy during the Second World War.

You will notice there are no women here. During Flowers' period as President, a bill went through making them eligible to sit in the Legislative Council. Five years later, the second Lang Government would appoint two women: Catherine Green and Ellen Webster. But my suggestion here is that these kinds of Legislative Councils were probably less likely to pop up in an upper Chamber that was an elective one, where it was still seen as a kind of political body in a way that could be partly elided through the nominated system that existed in New South Wales.

To finish, the Legislative Council was an ambiguous contributor to New South Wales democracy in the period up to 1924, in light of its nominated status. Nonetheless, it was absorbed into a democratic culture and probably played a more useful role than the elected Victorian Chamber as a genuine house of review. Thank you.

Professor RODNEY SMITH: Thank you, Frank. I will take over. I also acknowledge the Gadigal people of the Eora nation on whose lands we meet, and Elders past, present and emerging, and any other First Nations peoples who are here. I thank all of those who organised this conference. I want to take up the second hundred years—that's my task. I am going to focus on the politics of this more recent period and try not to get too much involved in the constitutional and electoral changes, because they are the subject of later sessions today. The second hundred years of the council was often a turbulent period. Despite its survival in the 1920s and 1930s, throughout the first half of this period the council, it seems to me, struggled to define a clear role for itself. In the past five decades, I would argue, we have seen the period where it has developed into a pluralistic Chamber with a strong institutional culture of legislative review and executive scrutiny. But that also has brought its challenges and conflicts.

I want to skip through the hundred years and pull out some themes from different periods, starting with the 1920s and 1930s. I don't want to say too much about abolition because I'd rather talk about what the council has done than what might have occurred had it been abolished, but we need to address abolition. Abolition was driven by Jack Lang's reform agenda. The Lang Government, from 1925, had a strong Labor agenda: the introduction of widows' pensions, child support, the 44-hour working week under State awards, workers compensation and so on. The Council resisted much of this. As Frank has mentioned, abolition of the Council was part of Labor's platform but, as Frank also mentioned, it wasn't an element in the platform that had been vigorously pursued prior to Lang, and Lang himself didn't mention it in his 1925 election speeches. It wasn't top of Lang's agenda during that election.

Unlike in Queensland, the 1925 attempts to abolish the Council famously failed when two of the members who had been appointed to the Council for that purpose crossed the floor and voted with the non-Labor MLCs, and five were absent from the vote. The effort failed and Lang lost the 1927 election. His replacement, Thomas Bavin, thought, "We've got to do something about the Council if we don't want it to be abolished. What can we do with it?" He proposed a Legislative Council of 60 indirectly elected members—that is, members elected by the Legislative Assembly—for staggered 12-year terms. So 15 MLCs would be elected in each tranche of three years.

But Bavin, again, didn't pursue this particularly vigorously. There was some uncertainty about whether voters would consider an indirectly chosen Legislative Council as a satisfactory outcome of the Nationalists' election promise to remodel the Legislative Council on an elective basis. Would the voters countenance the idea that an indirectly elected Council was fulfilment of that election promise to establish the Legislative Council on an elective basis? Additionally, there was a question about whether this was the right time—whether the Depression, with all of its social and economic upheaval, was really the period for constitutional reform.

Bavin, in turn, loses the 1930 election, bringing Lang and the Labor Party back into power. There are new swamping efforts by Lang that are unsuccessful because of resistance by the Government and so on. Lang finds himself increasingly preoccupied with other matters until his famous dismissal by Governor Game and the loss of the 1932 election. So abolition fails, Bertram Stevens becomes Premier, and in 1932 he implements the Legislative Council reform along the lines suggested earlier by Bavin. From 1932 to 1978 we have a Chamber that is indirectly elected—that is, elected on a proportional basis by the members of the Legislative Assembly.

The status of the Legislative Council appears to be settled. It's established, and it's not going to be abolished—or, at least, not easily, as it's going to require a referendum to do that. It has shifted towards a more democratic basis, if you like—or it is more responsive to the people, albeit indirectly, by those people electing the

members of the Legislative Assembly, the lower House. But is its status really settled? As an indirectly elected Chamber, it seems to me that for this whole period from 1932 to 1978 the Chamber often struggled to define a clear role for itself in a modern democracy.

There are a number of suggestions as to why it might be seen as an appropriate House for such a democracy. One is the idea that the Legislative Council would be a house of review, or was a house of review, or a house of "second thoughts"—that the Legislative Assembly, the government of the day, would propose legislation, and the Legislative Council's role was to review that, to give it a second thought, to see whether the legislation was appropriate, effective and so on. This was associated with the idea of the Legislative Council's part-time nature. It wasn't seen as a co-equal House with the Legislative Assembly, which was full-time. Rather, it was seen as a second Chamber that was a supplement to the Legislative Assembly—despite, as Frank has mentioned, its quite extensive constitutional powers. This was reinforced by the fact that Legislative Councillors—not all of them, but many of them—didn't attend sessions on a regular basis, and didn't participate in legislative debates if they did attend, and there was little committee work or other legislative activity beyond the meetings of the Council. So was it really a house of review or a house of second thoughts?

Another idea was that it would be a brake on "revolutionary measures". Again, where do revolutionary measures come from? Arguably not from the Labor Party, but potentially, perhaps, from the Labor Party—so this idea that the Legislative Council was a conservative brake on revolutionary measures that it could resist, or extreme measures. It was seen as acting as a brake on popular fancies that might overwhelm the electorate: They elect a radical government, and without a Legislative Council you'd end up with some kind of revolutionary chaos. But what counts as extreme? Who is to define "extreme"? One person's extreme measure might be another person's reasonable reform.

A third idea was that the Council therefore should allow the Government to implement its mandate; in other words, it wouldn't obstruct anything that the governing party had said it would do during the election campaign but should be prepared to scrutinise and, if necessary, reject legislation for which the Government didn't have an obvious mandate. This was never, it should be said, Labor's position in the Legislative Council, and it also should be said it was very inconsistently applied by the non-Labor MLCs. This idea that mandated legislation was fine and non-mandated legislation was fair game for rejection by the Legislative Council, again, didn't particularly well define its practice.

Was it a house of expertise or a House that was more diverse than the Legislative Assembly? Ken Turner, in his fine book *House of Review? The New South Wales Legislative Council, 1934-68*, published in 1969 by the University of Sydney Press and definitely required reading for anyone who's interested in the history of the Council in this period, casts doubt on this. There certainly were some experts within the Legislative Council in particular fields. There was also some diversity. As Frank mentioned, there were some women appointed to the Legislative Council.

The practice of what we would now call duty members of the Legislative Council—in other words, members of the Legislative Council who, effectively, looked after geographic areas of the State of New South Wales where their own party wasn't particularly well represented in the Legislative Assembly—also developed. But the Council had a quite narrow expertise. It was dominated by urban and rural business owners, so farmers, graziers, businesspeople, lawyers and trade union officials—a fairly narrow range of expertise. It was never particularly diverse in its socio-economic composition.

Was it a nonpartisan House? The mythology around this is perhaps stronger than any of the other points, maybe other than the idea that it was a house of review. In fact, the Labor and Country parties had no particular qualms about acknowledging party within the Legislative Council. The idea that the Legislative Council was a nonpartisan house in comparison to the partisan bearpit of the Legislative Assembly largely rests on the Liberal Party's and its predecessors' reluctance to acknowledge party in the Legislative Council. These non-Labor MLCs, led by Sir Henry Manning, were very slow to acknowledge party. The Liberal Party avoided preselections for Legislative Council seats until 1961.

Manning rejected the title of Opposition leader that was available to him. His successor, Sir Hector Clayton, originally from the United Australia Party but who sat as an Independent in the Legislative Council, accepted the rather gorgeous title, I think, of Principal Representative of members who are not supporters of the Government—"I'm not the Opposition Leader; I'm the Principal Representative of those members who are not supporters of the Government"—in 1960.

The Liberal Party predecessors were slow to accept the idea of party in the Legislative Council but, as Ken Turner points out in his book, there is a distinct difference in the level of legislative scrutiny of the Council when it is controlled by the same party that controls the Legislative Assembly and when it's under the control of

a different party to the party in control of the Legislative Assembly—in other words, when the party that dominates the Legislative Council is not the party of government.

In 1934-1941, 1949-1959 and 1961—periods when either Labor dominates both Houses or non-Labor dominates both Houses—the Legislative Council activity, its amendments to bills, its scrutiny of bills and so on, declines quite markedly. Where the two Houses are divided—1941-1949, 1959-1965 and 1965-1967—there is more activity. So partisanship is clearly in operation, even when not acknowledged. In summary, between the 1930s and 1978, the record of the Legislative Council as a house of review was very patchy and perhaps Ken Turner's lukewarm praise of the Legislative Council in this period as having a "useful record of undramatic tidying up of legislation" is the best that can be said.

To the extent that members of the Legislative Council cared about this, they struggled to define a satisfactory role for themselves. "Retain and reform" was always the rallying cry against further attempts at abolition, notably the rather lacklustre Labor push in 1960 and the referendum of 1961 to abolish the Council, which failed. But what sort of reform? What was the appointed Council or the indirectly elected Council to be replaced by? The reform of 1978 resolves that issue. Arguably, it's the true start of a democratic Legislative Council. If, in four years' time, people are so minded, we could come back and have 50 years of the truly democratic Legislative Council—just a suggestion! I'm not being paid for this gig, by the way. But arguably, this is the true start of a democratically elected Legislative Council, directly elected by the people.

Neville Wran's Government, in 1978, implements reform to the Legislative Council by reducing the numbers from 60 to 45, with 15 directly elected for 12-year terms, with optional preferential voting in which voters had to indicate at least 10 preferences for the candidates. Wran, it has to be said, wasn't the first—or the Labor Party under Wran was not the first group—to push for a directly elected Legislative Council with staggered terms. This was suggested at least as early as 1932 in the considerations as to what to do with the Legislative Council, when the idea of a 60-member Legislative Council with 15 Legislative Council members elected every three years, plus 15 to be appointed, was mooted. And in 1962, the Liberals, in thinking about what to do once they'd helped to defeat the 1961 referendum campaign to abolish the Council, came up with a range of options, including a 36-member Legislative Council with nine members of the Legislative Council elected every two years for eight-year terms. Wran's implementation was not the first time that a directly elected, staggered-term Legislative Council had been proposed.

Neither Wran nor the Opposition leader at the time, Sir Eric Willis, expected the new Legislative Council to challenge the two-party system. This is an important point. They expected the power in the two Houses would be held dually—i.e. the party of government would also control the Legislative Council—or would be divided along party lines. They didn't anticipate the emergence of minor parties in the Legislative Council. Eric Willis warned that the Labor Party wanted a directly elected Council so that it could enact "socialist legislation without restraint. After a period of time when people have seen that the legislation is nothing more than a rubber stamp, Labor will persuade them that it's a waste of taxpayers' money and they might as well abolish it." For his part, Neville Wran said, "I do not propose to make the Legislative Council a forum for every single-issue candidate and every pressure group in this State. That is a sure way to undermine the basic two-party system which lies at the very heart of the strength of our parliamentary democracy."

Neither the Labor Party nor its Coalition opponents thought that the Legislative Council, elected directly by the people on a proportional basis, was going to result in the sort of multi-party system that emerged. And for a decade this was the case. In 1981 the first minor party candidates were elected to the Legislative Council in Reverend the Hon. Fred Nile for Call to Australia and Elisabeth Kirkby for the Australian Democrats. By 1986 Elisabeth Kirkby felt she was wasting her time in the Legislative Council. She told *The Sunday Telegraph* in an interview, "I am irrelevant to this Parliament. I can't change anything." She considered switching to the Senate, trying to run as the lead candidate for the Australian Democrats in the Senate, where the Democrats had held the balance of power since July 1981.

For the first 10 years Wran and—well, not Willis perhaps, worrying about Wran and the Labor Party's dominance, but Wran would have been happy with the outcome of the shift to an elected Legislative Council. But then things began to change. In 1988, as many of the more accurate predictors thought would be the case, the minor parties started to hold the balance of power. From 1988 onwards the minor parties begin to hold the balance of power in the Legislative Council and the major party of government never gets it back. Interestingly, it is minor parties, not Independents, who are important here. The statewide election means Independents don't get any purchase on the Legislative Council elections. No-one is well known enough across the State to run on their own. The form of the ballot encourages people to run under party tickets.

This shift to the minor parties holding the balance of power and gradually extending their presence in the Legislative Council fundamentally changes Legislative Council politics, although it doesn't do so overnight.

Initially, the effects are felt on legislation and scrutiny of the Executive rather than institutional changes such as the development of the committee system that we see today. Between 1988 and 1991, for example, the Australian Democrats, in particular, pushed hard for amendments to key planks of the Greiner Government's legislative agenda, particularly in areas like industrial relations. In 1989, for example, negotiations on the workers compensation bill saw the Minister for Industrial Relations, John Fahey, more or less camped outside the offices of Elisabeth Kirkby, trying to convince her—and Richard Jones, her fellow Democrat—to switch their position and support the Government's legislation.

On the main industrial relations bill in 1990 and cognate bills, negotiations with the Democrats dragged on so long that the bill was extended into the second term of the Greiner Government after the 1991 election. It was only after 484 amendments were passed in the Legislative Council that the bill got through. During this time, John Fahey, a member of the Legislative Assembly, sought leave to appear and did appear in the Legislative Council to answer questions and to explain elements of the bill. We can see in this period the minor parties teaming up with the Opposition to make life hard in terms of scrutiny of Government legislation regardless of whether or not the Government had a mandate for that legislation. Clearly the Greiner Government had some kind of mandate for this legislation, but that didn't stop Labor—not surprisingly—and it also didn't stop the Democrats from saying, "Well, we can amend this legislation or attempt to amend it where we see it's deficient."

Defeat on legislation tempted the Government to achieve some changes via regulation. This was used particularly notably by Michael Yabsley in the area of corrective services. What you can't get through by legislation, you get through by the existing regulations. The Democrats responded to this by reviving the practice of disallowing regulations. The Government, again, felt itself being pushed back by the presence of the Democrats in particular in the Legislative Council.

From 1991 to 1995, the second period of the Greiner and then Fahey governments saw the Legislative Council establish implicit limits to its perceived capacity to keep the Executive accountable. You will remember during this time, I would imagine, the controversy around the appointment of Terry Metherell to a senior public service position and the subsequent resignation of Premier Greiner and Minister Moore over that issue. In 1992 the Legislative Council considered a motion censuring Nick Greiner's minority Coalition Government over the appointment. This was defeated in the Council. The Legislative Council since has passed censure motions on one or two individual Ministers, but the events of 1992 established that it was the Legislative Assembly, not the Legislative Council, to which Ministers and governments ultimately were responsible.

So 1991 to 1995 saw a more complex Legislative Council. It was a council now not of 45 but of 42, following the election of the Labor Government under Bob Carr. In this Council, Labor held 17 seats to the Coalition's 18 and the crossbench had expanded. It was no longer Call to Australia or the Christian Democrats—Fred Nile's party—and the Australian Democrats. There was now one Greens MLC, one Shooters party MLC, and one A Better Future for Our Children MLC. The Australian Democrats Kirby and Jones split, Franca Arena exited the Labor Party, Helen Sham-Ho exited the Liberal Party, and by the end of that period we had a crossbench of nine in the Legislative Council—a much more fluid Council than the simpler division of earlier times. In this period two developments strengthened the Legislative Council in its legislative and Executive scrutiny roles.

The first was the development of the committee system. Much of this didn't start in the Council itself. It began in the period of minority government in the Legislative Assembly, when the three non-aligned Independents held the balance of power. As part of their efforts to reform Parliament, they helped to introduce a range of new committees in the Legislative Assembly. These developments had varying levels of success, but they were picked up in the Legislative Council. In particular the estimates committees, which hadn't worked particularly well in the form in which they were introduced in the Legislative Assembly, were picked up in the Legislative Council. Those committees have developed over time until now, where we have eight portfolio committees in the Legislative Council covering the various portfolio responsibilities of Ministers and acting as estimates committees, as well as general issue-type committees. The development that we now see today in those eight portfolio committees began with the Legislative Council taking up an idea pioneered, not terribly successfully, in the Legislative Assembly in that period of minority government. So this period sees the development of the committee system.

The second development, which I won't say too much about because I'm sure it will be discussed later today—and it's already been alluded to—is the rise of orders for the production of State papers, which begins in this period—again, not initially in the Legislative Council but in the Legislative Assembly, where there were 14 orders for State papers during the period of minority government, reviving a practice that had really disappeared in both Houses for a long time. In the Legislative Council, there was only one instance of orders for the production of State papers between 1936 and 1990. But from 1999 onwards, beginning with an Opposition motion to order the production of State papers in relation to ministerial decisions over the Lake Cowal gold mine, we have seen the expansion of these powers. We have seen them tested in the courts and upheld in the courts. Again, jumping forward to 2023-24, according to the latest Legislative Council annual report, there were 45 orders

for papers agreed to in that yearly period. That was fewer than in immediately previous parliaments, but still indicates a significant level of scrutiny of Executive decision-making.

I want to finish by talking briefly about the period 1999 to 2003, which is the last attempt to control or rein in the Legislative Council. It was largely a reaction by the major parties to their loss of control of the Legislative Council. In 1995 there was the election of small parties on ticket votes, and 1999 saw the famous tablecloth election, which saw the crossbench again expand, where parties were elected with very small proportions of the vote. No doubt more will be said about this later today. The Labor Government and the Coalition Opposition decided something needed to be done about this.

Again, I will not talk about the electoral reforms and the reforms to party registration that resulted, but the key element of this that did not occur was the idea that a new deadlock mechanism for resolving disagreements between the two Houses should be introduced, which would severely reduce the Legislative Council's ability to successfully press for amendments of Government legislation. This would have basically seen the Legislative Assembly being able to wait out any Legislative Council amendments and then press on with the bill in its initial form, much like the House of Lords and House of Commons arrangement in the United Kingdom. For a while it looked like both of the major party groupings would agree on this, but the Coalition had second thoughts when it realised that the first beneficiary of this would be the Carr Labor Government. It thought better of that in terms of short-term tactics, if you like, or short-term strategy rather than long-term benefit that might accrue after it got back into power.

That really was the last significant occasion on which the Legislative Council's powers have been seriously challenged. Since the early 2000s, the pattern of expanded Legislative Council activity has continued. Some minor parties have continued and grown, such as the New South Wales Greens. Others have disappeared after a very relatively brief appearance: Think of the Unity Party. Does anyone remember the Unity Party? It was a party that was formed around a multicultural platform in response to the One Nation Party. The One Nation Party has had an intermittent presence in the Legislative Council. The 2023 election saw, after 42 years, the end of the conservative Christian Democratic Party, formerly the Call to Australia Party. It was the first time since 1981 that there had been no organised conservative Christian presence in the Legislative Council. But, at the same time, 2023 saw two new minor parties in terms of Legislative Council representation, in the Legalise Cannabis Party and the Libertarian Party.

The Legislative Council maintains its dynamism and maintains its multi-party nature. It certainly has a clearer sense of its place in the New South Wales system of checks and balances and broader democracy, and it appears that it will flourish as a democratic and vibrant institution into the future. Thank you.

Mr DAVID BLUNT: Thank you so much, Rodney and Frank, for those fascinating presentations. We have 10 minutes for questions. If you would like to ask a question, just raise your hand, and we will get a roaming microphone to you.

AUDIENCE MEMBER: Hello—Clem Macintyre from the University of Adelaide. Thank you both for your terrific presentations. Frank, I have more of a comment. I was fascinated by the distinction you were drawing between the political cultures, if you like, of New South Wales and Victoria, based on the powers of their upper Houses. Inevitably, I started comparing it to my thoughts on South Australia. South Australia's upper House has more in common with the Victorian one, in the sense of an elected Chamber with a property qualification. Yet, the politics, in a sense, is more similar to the pattern that emerged in New South Wales, with factionalism prevailing for much longer, and the ideological divides that you were identifying less evident. It is a really interesting model that you were drawing. I was just wondering if you've had a chance to look at other jurisdictions, including Western Australia and Tasmania, to see whether or not there is something there you can draw from more deeply.

Professor FRANK BONGIORNO: Thanks, Clement. It's a really good question. South Australia was a little bit different from Victoria. Its franchise was much more liberal than the Victorian Legislative Council from the outset. In fact, there were Labor members of the South Australian Legislative Council before there were Labor members of the Legislative Assembly, which was a coincidence of the timing of elections. But it does dramatise that there were certainly differences in the qualifications for both the franchise and to sit in the Chamber. In the South Australian case—and I am certainly no expert on South Australian politics—it was a very conservative and, I think it has to be said, very obstructionist body at times during the Playford years. It gave him some trouble.

I wonder if, in the South Australian case, the fact that you had an incredibly enduring conservative Government—the Liberal and Country League Government—extending from 1933 through to 1965 affected the dynamics of that. Playford was clearly in the ascent. There were incredibly high levels of consensus around public policy goals during that period, around industrialisation and so on. So whilst the Council did cause some difficulty for Playford from time to time—if I remember rightly, it was over things like the nationalisation of the gas supply

and other socialist-type policies that he pursued—I think the dynamics in South Australia were a little bit different for a range of reasons in a range of different time periods. It would be really interesting to do this sort of comparison.

AUDIENCE MEMBER: Certainly in relation to the nineteenth century.

Professor FRANK BONGIORNO: Yes, that's right. It's a really good suggestion. I would also like to do more on what kinds of individuals end up in these councils in elective systems compared with the nominated system of New South Wales. Of course, Queensland had one too. I think that would be really very interesting. I am not aware that there has been really detailed stuff done on that.

Mr JEREMY TRAVERS:

AUDIENCE MEMBER: Jeremy Travers. Frank and Rodney, love your work. I am just thinking of the question on the fly. What lessons would you say that the past 200 years have for the Legislative Council of today and the Legislative Council of tomorrow?

Professor RODNEY SMITH: What lessons? I think a key lesson is what you start off with isn't what you end up with. There is a certain level of institutional rigidity and path dependency, but there can be breaks and they don't necessarily come when they are first thought of. As I was trying to say, the idea of a directly elected Legislative Council is around in the 1920s and 1930s, even on the non-Labor side, but it's not until four or five decades later that you get that. If you want to draw a broad lesson about the trajectory of institutions, it is that they are often unexpected. Again, going back to Wran and Willis, Wran clearly didn't have in mind the Legislative Council of today in 1978. He would be rolling in his grave. But developments occur as a result of those sorts of changes that are beyond the imagination of the people who bring them about, and they open up new possibilities.

Professor FRANK BONGIORNO: Talking about unintended consequences of action, it is very similar to the colonial period where liberals and even radicals favoured elective. They wanted something elective; conservatives wanted something nominated. It settles in and each side thinks, "Oh, gee, that's not what I expected." Eventually you have those who are on the liberal side saying it is probably better to have a nominated council. Those on the conservative side suddenly say, "Gee, that wasn't such a great idea after all." What is striking, though, is that if you have the right kind of mechanisms for how that is constituted—and we're not going to have nominated bodies of that sort in Australia today—there is the potential for a house of review.

I would argue that the nominated council, particularly from Rodney's account, might have been better at being a house of review than what followed from the 1930s, because it was able to incorporate forms of expertise at least that I suspect you are not going to get through what was a very party-dominated system. They used to look at each other's ballots at times because there were some expulsions of Labor people for voting the wrong way—around 1950, from memory. That is a party-dominated system, whereas you had something quite different, I think, in the nominated system before then.

AUDIENCE MEMBER: Is there any indication that the Starmer Government is looking at the Australian experience as it thinks what to do with the House of Lords?

Professor FRANK BONGIORNO: I don't know.

Professor RODNEY SMITH: I don't think so. I have been following the debates in the United Kingdom and they seem to be very focused on their own experience and working out something that fits their own experience. I don't think they are looking at the Legislative Council of New South Wales, sadly. The imagination is rather narrower, I think.

Mr DAVID BLUNT: Perhaps we can live in hope. That brings us to the close of this session. I ask you to join me in thanking Frank and Rodney. We very much look forward to their continued participation over the next couple of days and their contributions from the floor.

**EVOLUTION, ABOLITION, ENTRENCHMENT:
CEMENTING THE PLACE OF THE LEGISLATIVE COUNCIL**

Professor ANNE TWOMEY, Professor Emerita, University of Sydney

The Hon. KEITH MASON, AC, Former President of the New South Wales Court of Appeal

The Hon. Justice ELISABETH PEDEN, Judge of the Supreme Court of New South Wales

Ms JENELLE MOORE: Welcome back, everyone. I hope you enjoyed morning tea and had a chance to see some of our fantastic *Legacy & Evolution* exhibition upstairs. To introduce our next speakers, it is my privilege to introduce the Hon. Susan Carter, MLC. Susan is a member of the Liberal Party and the shadow Assistant Minister for Attorney General, shadow Assistant Special Minister of State, and shadow Assistant Minister for Corrections. Susan is also a very active member of our committee system and has been a valued supporter of our activities throughout the bicentenary program. Prior to entering Parliament, Susan worked in commercial law, public policy and legal education. Please join me in welcoming the Hon. Susan Carter to the stage.

The Hon. SUSAN CARTER [Member of the Legislative Council]: It's my great pleasure to be here to introduce the panel to you for this very important session. It is so exciting to see so many people who are interested in this really important area of our legal history. It's so wonderful to be part of a birthday celebration that has this appreciation of what it took to get to 200 years. I'm sure you all know that our next session will guide us through a range of key constitutional milestones for the Legislative Council, the Council in the lead-up to Federation and the particular role of President Peden and others in responding to abolition attempts. It's good to know that you're part of something that does such a good job that everybody is always trying to get rid of you. To shed light on these moments in the Legislative Council's history, I have the pleasure to introduce Professor Anne Twomey, the Hon. Keith Mason, AC, and the Hon. Justice Elisabeth Peden.

Professor Twomey is Professor Emerita of the University of Sydney, where she taught constitutional law for many years. She has also worked for the High Court of Australia, the Commonwealth Parliamentary Research Service, the Senate Legal and Constitutional Committee, and the Cabinet Office of New South Wales. She has published the authoritative text on the Constitution of New South Wales and written about the State's constitutional history. She's also, I'm happy to say, a respected friend of the Parliament.

The Hon. Keith Mason, AC, has been a solicitor, barrister, law reformer, Solicitor General, President of the New South Wales Court of Appeal, law teacher and mediator. He has published on topics including judicial method, legal taxonomy, the law of restitution, and the interface of law, morality and religion. He was formerly Adjunct Professor at the University of New South Wales, President of the Appellate Tribunal of the Anglican Church of Australia and chairperson of the NSW Electoral Commission. Keith was appointed a Companion of the Order of Australia in 2003 for service to the law and legal scholarship, to the judicial system in New South Wales, to the Anglican Church and to the community. He has also assisted the Legislative Council over many years as our respected Independent Legal Arbiter.

Rounding out the panel is the Hon. Justice Elisabeth Peden, who was appointed senior counsel in 2019 and, in April 2022, was appointed as a judge of the Supreme Court of New South Wales. After she was admitted as a legal practitioner in 1994, her Honour commenced as an academic barrister and also as an academic at the University of Sydney. Since then, her Honour has been promoted to professor and also served as pro dean in the university's faculty of law. She has written, co-authored and edited many books and published articles in numerous journals. In addition, her Honour has also practised as a full-time barrister, advising and appearing for governments, large and small corporations and individuals.

Her Honour continues to speak at national and international conferences and currently sits in the Equity Division of the Supreme Court of New South Wales. Justice Peden also brings to us today a particular advantage in that, as the great-granddaughter of the former President of the Legislative Council Sir John Peden, she may have some family as well as some legal insights to share. Please welcome our panel. They are going to add greatly to our knowledge on this topic.

Professor ANNE TWOMEY: Thank you very much. My role today is to give you a broad overview of the critical developments in the evolution of the New South Wales Legislative Council. My focus is going to be a bit more on the early years, as they are less familiar to people and, therefore, a little bit more interesting. It's been quite some evolution from an unelected group of five residents of the colony of New South Wales appointed

by the King in 1823 to a fully elected house of review that today is not controlled by the government and can and does cause it no end of trouble.

Initially, the Legislative Council was more like an adjunct to the role of the Governor. Its five members were all officials who were appointed by the King. Only the Governor could lay any bill before the Legislative Council. While a majority of the Legislative Council could veto the enactment of a law, the Governor could then override them if it appeared to the Governor that the law was essential to the peace, welfare and safety of the colony and at least one other member of the Legislative Council supported it. In such a case, the Governor still had to provide reasons to the United Kingdom, and the monarch then had the full right, as always, to disallow that legislation, in those days, within three years of it being enacted.

In 1825 Governor Darling expanded the Legislative Council to seven members, four of whom were the holders of the office of Lieutenant-Governor, Chief Justice of New South Wales, Archdeacon and Colonial Secretary, while the other three were private members of the population of New South Wales. John Macarthur, mostly known in relation to sheep, interestingly was removed from the Legislative Council "upon being pronounced a lunatic". They don't do that anymore. Robert Campbell and Charles Throsby finished up the numbers there.

It's interesting that notions of the separation of powers and the separation of church and state had not been sufficiently developed at that stage to exclude the Chief Justice or the Archdeacon from sitting in the legislative body. Sir Francis Forbes and Sir James Dowling, who were successive chief justices of the New South Wales Supreme Court, each sat in the first Legislative Council. This led to potential conflicts as the Constitution provided at that stage that a bill could not be passed unless the Chief Justice of the Supreme Court had certified that it was not repugnant to—which means inconsistent with—the laws of England. One such clash between Chief Justice Forbes and Governor Darling erupted over an issue that remains contentious today, so I thought I'd just include this for a bit of colour and interest. It concerned to what extent media outlets could be restricted so they did not spread misinformation or foment antagonism within the community. The more things change!

Governor Darling had claimed that the licensing and censorship of the press was necessary for the safety of the colony because local newspapers "persevered in their mischievous endeavours to bring the government into hatred and contempt, and, in fact, succeeded in exciting a strong spirit of discontent amongst the prisoners". The Act would have made it a criminal offence to publish a newspaper without a licence to do so, and it provided for licences to be granted and revoked at the will of the Governor. In identifying the fundamental laws of England, Forbes relied on a passage from Blackstone's *Commentaries*, which said—and, again, it's quite pertinent today:

The liberty of the press ... consists in laying no previous restraints upon publications, and not in freedom from censure for criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public: to forbid this, is to destroy the freedom of the press. To subject the press to the restrictive power of a licenser, as was formerly done, both before and since the revolution, is to subject all freedom of sentiment to the prejudices of one man, and make him the arbitrary and infallible judge of all controverted points in learning, religion, and government.

Commonwealth Government today is probably rather glad that it doesn't have a pesky Chief Justice in Parliament who has the power of certifying the validity of laws in this way, especially as to the question of who decides what is misinformation and what is truth and how social media should be regulated and censored. Perhaps uncoincidentally, the following year, in 1828, the role of the Chief Justice in certifying bills prior to their enactment was downgraded. Instead, after a law was enacted, it had to be forwarded to the Supreme Court. Unless the Supreme Court made a finding of repugnancy within 14 days, the law took full effect. If the Supreme Court issued an opinion that the law was repugnant within that 14 days, the operation of the law was suspended until it could be reviewed by the Legislative Council. After that review, if the Governor, on the advice of the Legislative Council, adhered to that law, it took effect and was binding until the King's pleasure on the law was signified in the United Kingdom. So the Legislative Council could, in effect, override the opinion of the Supreme Court, but subject to British supervision.

In 1828 the size of the Legislative Council was also expanded to between 10 and 15 members, and the Council was given much greater control over bills as the Governor's powers began to diminish. The next big change was the introduction of representative government in 1842. The British statute known as the Australian Constitutions Act No. 1 established a Legislative Council of 36 members, two-thirds of whom were elected and one-third appointed by the Crown. This meant that, for the first time, a majority of the Council's members were directly elected by the people. The first election was held with much enthusiasm, a degree of drunkenness and quite a bit of violence in 1843. The franchise, however, was quite limited. Voters had to hold a freehold estate of £200 or occupy a dwelling of an annual value of £20. The franchise, of course, was also confined to men.

The Governor could still propose bills, and amendments, but the Legislative Council could itself now initiate legislation. The Governor also ceased to be a member of the Legislative Council, although he still had to provide assent to bills, as indeed happens today. Laws were also no longer examined for repugnancy by the

Supreme Court, although, of course, if they were challenged later on, after their enactment, the court could still find that they were invalid for repugnancy.

The election of members to the Legislative Council did change the dynamic significantly. The Legislative Council became a forum for debating policy matters and, in particular, for grievances arising from the continuing British control over matters such as Crown land and finances. The Legislative Council sought greater local control over revenue and taxation and an end to the power of the British Government through the monarch to disallow laws. It sought responsible government, which not only meant what we ordinarily understand it to mean in the Westminster system of government but also, in those terms, meant that the Governor would act upon the advice of his local responsible ministers, rather than acting as an instrument of the British Government.

An attempt by the Colonial Secretary, Earl Grey—more famous for his family's tea—to impose constitutional reforms for the purpose of checking the growing power of the Legislative Council was met by howls of outrage in New South Wales. Public meetings were held to condemn the Colonial Office tyranny, and William Wentworth denounced Earl Grey's proposals as "uncalled for, visionary"—which was a big insult in those days—"impractical and unwarranted". In response to that rather hostile response, the British instead passed the Australian Constitutions Act No. 2 of 1850, which provided for, amongst other things, the separation of Victoria from New South Wales. It also permitted the colonies of New South Wales, Victoria, South Australia and Van Diemen's Land to amend or rewrite their own constitutions as long as those changes were reserved for the Queen's assent.

From this point, there was a struggle for greater independence in the colonies, with various of those grievances and remonstrances and petitions being sent to the United Kingdom, along with the odd hint about what had happened in America and could happen here. The discovery of gold meant that, actually, the colonies could fund a revolution if they really wanted to. That nudged the United Kingdom into a more conciliatory position. A select committee of the Legislative Council was established to draft a new Constitution for New South Wales. While it was agreed that it was appropriate to establish a bicameral Parliament, one dilemma was what to do with the upper House, the Legislative Council, and how it should be comprised so that it would be "an effectual check on the democratic element"—I should say "democracy" in those days was also considered a disparaging term—"in the Assembly".

There were various proposals about how the Legislative Council should be comprised. One was that there should be a baronetage, so creating a whole lot of barons which would elect from its number 30 members for the upper House. Another was that there be a nominated upper House containing ex officio members, including all the judges of the Supreme Court and the heads of the Anglican and now the Roman Catholic churches; that was the idea of Sir Alfred Stephen, who happened to be the Chief Justice. Other proposals included an indirectly elected House chosen by the members of the lower House, a directly elected House with a high property qualification and an age limitation, or a hybrid House with two-thirds of it nominated for life and drawn from those who'd previously been elected as members and the others holding ministerial office at the pleasure of the Governor.

Notoriously, the draft Constitution that was eventually put out to the people contained a proposal for the creation of hereditary titles to which would be annexed a right to sit in the Legislative Council. Despite recommending that hereditary system, William Wentworth did recognise its failings, noting that "it very often happens that the most brilliant fathers have the most stupid sons". The bill passed its second reading and was then left open for public discussion. The public discussion was intense and highly critical in town hall meetings and petitions throughout the colony. The greatest objection was to the introduction of titles, which was dubbed by some as the "bunyip aristocracy". It was effectively scorned into oblivion through public ridicule.

When the Legislative Council returned, hereditary peerages were dropped in favour of a nominated Chamber. Members were to have an initial term of five years to allow the system to be bedded down, and then after that the Legislative Council would have members that were appointed for life. A proposal to instead have an elected Legislative Council with a high property qualification was defeated in New South Wales by 30 votes to nine. The concern was that, if that went ahead, it would be dominated by the squatters and was therefore not actually in the interests of the radicals or the conservative lawyers and businessmen to actually support it. In a way, they were proved right; I think this was possibly discussed in the earlier session. While Victoria chose to have a Legislative Council that was elected, with property qualifications, it proved to actually end up being more conservative than the New South Wales Legislative Council, which, by being appointed, actually allowed a wider variety of people to be chosen for it, especially once you had Labor governments being elected in New South Wales.

The Constitution Bill, as approved in New South Wales, went beyond what had been permitted by the British, as it sought a level of independence in relation to domestic matters which was inconsistent with some British laws that applied by paramount force. So the Constitution was sent off to the United Kingdom for

enactment there, because only the Westminster Parliament could change those laws. The British Government, however, did not approve all the terms of this draft Constitution. But they did not want to cause trouble by rewriting it, so they took the third way, which I thought was terribly clever, and just snipped out the provisions that they didn't like. They said, "We didn't change a word of it! We just cut out certain bits of it."

This led to a very peculiar situation where the New South Wales Constitution was not actually enacted by any Parliament. The version that was passed in New South Wales contained provisions that were not in the final version, and the British didn't enact it either. What they did was enact a statute which authorised Queen Victoria to give assent to a Constitution in the form attached in the schedule, which had those bits cut out of it. So no Parliament actually ever enacted the Constitution, which led to some difficulty in trying to work out how to actually name or describe the legitimacy of the New South Wales Constitution, which is variously described as the Constitution Act of 1853 or 1855, depending on what the hell you count, because it wasn't really passed by anyone.

Under that Constitution we had the setting up of a bicameral Parliament. Following the precedent of the House of Lords, the seats in the first Legislative Council were offered to the bishops and religious leaders but, interestingly, they declined to take up the offer and were instead represented by lay members. Judges were also asked to take seats, and they did agree to do so. Chief Justice Sir Alfred Stephen even accepted the position of President of the Legislative Council, which he held for a couple of years but eventually gave up due to his judicial duties. Many attempts were then made to reform the Legislative Council to make it an elected body. For example, in 1859 it was proposed that the Legislative Council be comprised of 30 members to be elected for six-year terms, with the whole colony being a single electorate. But the bill failed at second reading and the Government lost office shortly afterwards. Another attempt was made in 1861, this time with members to represent individual electorates, but that was rejected by a select committee of the Legislative Council.

Later reforms proposed by Sir Henry Parkes included disputes over whether there should be property qualifications for both electors and members of the Legislative Council, and also what powers the Legislative Council should have over money bills. That was a significant fight that went on for years. George Reid also tried to reform the Legislative Council by putting a limit of 60 on its number to prevent the swamping of the Legislative Council by each government. He also proposed the appointment of members for a five-year term, with 12 of them retiring every year to allow each government, as it came in on a regular basis, to appoint more members. His reforms failed too, and the Legislative Council deferred debate upon them.

As you know, the Labor Party, for many years, had a policy that involved the abolition of the Legislative Council. This was easier said than done. The Holman Government sort of tried to do it, but the party split before it got anywhere near it. The Lang Government, in 1925, tried to do it by swamping the Legislative Council, but a number of its members ratted on the party—to use the Labor vernacular—by either crossing the floor or failing to turn up, which meant that this failed. Lang then went back to the Governor seeking more appointments to swamp the Legislative Council. The Governor, who had been promised by Lang that he would not use it for the purposes of the abolition of the Legislative Council, was so angry that he refused. He said he told him point blank he'd never give him another appointment and told him what he thought of him for having deceived him.

Lang then sent off his Attorney General to the United Kingdom to persuade the British to either recall the Governor or tell him he had to obey Lang. The British Secretary of State said that Lang was playing a very shifty game in his deceit, so he wasn't supporting it. And the King was furious because the Governor happened to be his childhood friend from when he was a naval cadet. There's a marvellous passage that someone reported of the King at lunch thumping the table in anger about Lang, to which Queen Mary says, "Dear, you will break the crockery if you don't stop." The Lang Government was defeated in October 1927 without succeeding to destroy its upper House.

Then we have the next episode, which Elisabeth will go into more, which was about the attempt to abolish the Legislative Council a second time during the Lang Government. I'll leave that one free for Elisabeth. We'll return to after the occasion of the dismissal of the Lang Government. We have the Stevens Government, which was elected. It passed a bill that provided for the reconstitution of the Legislative Council so that it consisted of 60 members, indirectly elected for terms of 12 years, with one-quarter of members being elected every three years. The electors were to be the members of the Legislative Assembly and the other members of the Legislative Council whose term was not up, sitting together as one body. The reason for using indirect election was a concern that a directly elected Council would claim a mandate from the people that would give them full financial powers and also the power to make and unmake governments. That was considered unwise, which was why we had an indirectly elected Legislative Council for some time.

There were other attempts to abolish the Legislative Council. The McKell Government had a go at it and failed to get their bill through, after it was tied and the President voted against it. Then, in 1959, you get the last

serious attempt to abolish the Legislative Council under the Heffron Labor Government. It did actually go to a referendum and the referendum failed, with 57.6 per cent of voters voting no. Doing a final wrap-up on the last little bits, we have the reconstitution of the Legislative Council again under the Wran Labor Government in 1978. There, a referendum was passed, which provided for the direct election of the Legislative Council by a system of proportional representation, with the whole State being a single electorate. The number of members was reduced to 45 and their terms were set at three parliamentary terms of the Legislative Assembly. At that time a term was a maximum of three years. That one had bipartisan support after a lot of negotiation, and the referendum was passed by a very large majority—82.6 per cent.

Finally, after four-year terms were introduced, there was a further reform of the Legislative Council in 1991 to reduce their term to twice that of the Legislative Assembly rather than three times, and the number was also reduced from 45 to 42, with 21 being elected at each general election. The effect of that, which may well have been mentioned earlier this morning, was that the quota needed to get elected was much lower and is much lower than in most other jurisdictions. The consequence of that is that you have a very large crossbench in the Legislative Council, which, of course, means that the government never controls it. That is how a small, unelected body turned into a directly elected upper House chosen by proportional representation with a large crossbench that is not under government control. One can only wonder what changes lie in store in the next 200 years.

The Hon. KEITH MASON: I want to add my thanks to the organisers of this conference. The failure of the Federal referendums about the republic and the Voice brought home to us the rigidity of our Federal Constitution, the fact that power to change it rests with the people and not the political elites and that division can be fatal to a major attempt to change a polity. The Federal Constitution under which all of these things happened didn't have to emerge in the form that it did on 1 January 1900, and it very nearly didn't. My presentation is pretentiously called "How the New South Wales Legislative Council nearly derailed Federation".

If you step back to the beginning of the 1890s, when the notion of having a federation was starting to be seriously talked about, there were four constitutional steps that would have to take place before it could happen. The imperial Parliament would have to pass legislation, and to do that it needed to be satisfied that there was sufficient support for the idea in the eastern Australian colonies. The final legislation was left open for Western Australia to hop on board, which they did very belatedly, and New Zealand, which didn't. The imperial Parliament also had to be satisfied that the Australian Federation would not harm British interests, and that worked its way out in the fight over the Privy Council's role.

Secondly, Australian political leaders would discover in the 1890s that public support needed to be wooed. It wasn't just a matter for the politicians in the colonial parliaments to put their heads together, even assuming they were capable of putting their heads together. It was only when the public started to get involved in the referendum campaigns that support grew. Thirdly, each of the Australian parliaments—we'll leave aside Western Australia—had to pass an enabling Act so that there could be separate referendums to approve whatever the draft bill for the convention was about. The matter had to go through the colonial parliaments, which were all bicameral at that stage. But, fourthly, nothing was going to happen unless the mother colony of New South Wales came on board. There were terms and conditions, but, equally, the mother colony had to respond to the package that was being presented by the smaller States.

Just very briefly about the background politics, remember that the colonies had only separated as recently as a generation ago—Victoria in 1851 and Queensland in 1859—so in one sense, to some people, Federation was sort of being asked to come back together when we sort of sorted this out in the lifetime of some of the players. Queensland was fighting its own battles because there was a distinctive push to create a northern and central colony in Queensland, and some of the politics over that was getting in the way of the politics about Federation in Queensland. Emerging Labor was fearful that a federation would delay more important social reforms, so Labor was pretty lukewarm about the matter. Free trade and protectionism divided New South Wales and Victoria. It divided New South Wales until 1894, when the Protectionist Dibbs Government was defeated and replaced by the Free Trade government of George Reid. And then there was the Sydney-Melbourne rivalry, which was often in the background. It flared up in the late politicking about the location of the Federal capital.

To take a brief gallop through the Federation milestones of the early 1890s, the 1891 convention, whose members were appointed by the various colonial parliaments, produced a draft Constitution that was incomplete, undemocratic and unsatisfactory in several ways, especially through the eyes of New South Welshmen. There was a Senate with equal State representation. Everybody realised that was going to have to be given. But in the original draft it had unlimited power to block financial measures and its membership was to be appointed by the parliaments of the respective States, which in turn dealt the upper Houses of the respective colonies into the whole measure.

The limits of the Senate's powers in money matters were barely addressed. There was a guaranteed minimum of five House of Representative seats per State, which would have given Tasmania a hugely disproportionate number of seats in the lower House of the Federal Parliament. The Privy Council remained the apex court for all matters Australian, and there was what was called the "Braddon blot". The provision in the original draft said that three-quarters of all customs and excise revenue would be returned to the States in perpetuity. That was an inbuilt guarantee that protectionism would continue, because the smaller States had an incentive to boost revenue that way because it was all going to come back in the loop to them.

The Parkes Government, which led for a short time in the early 1890s, fell to be replaced for a short time by the Protectionist Dibbs Government, before George Reid's Government—he led the Free Trade Party—came to power in 1894. Henry Parkes effectively withdrew from politics in 1895. In his latter interventions in the Federation movement, he was described by Professor Crisp as "a vain, politically bankrupt old man in a hurry"; maybe many old men are that. For the rest of the decade, Barton and Reid effectively vied for the leadership of the federal movement in New South Wales, but they didn't always see eye to eye. Reid was in offices as Premier; Barton was leading this mainly extra-parliamentary move with the Federation movement. Of course, that rivalry continued into the Federal Parliament, where Barton was appointed Prime Minister ahead of Reid, and Reid's time in the Federal Parliament wasn't a very happy one.

In 1893, Dr Quick proposed what people later realised was a breakthrough at the Corowa Conference. He said, "If we're going to have a federation movement and a popular, effective federation, we need to have a convention that is elected and we need to have a bill that is approved via referendums following whatever comes out of that framework." It was decided by all of the colonies that there would be what were called enabling Acts that would, in effect, lock in this process that would provide for elections to the convention and the sending off to referendum, colony by colony, of what emerged from the convention.

A brief reversion to what I've called the key role of George Reid—as Premier and leader of the Free Trade Party in New South Wales, Reid held a hand that was powerful but also constricting. He had the tension between running a government, dealing directly with a hostile upper House and garnering support for a federation bill that he wasn't very enamoured with that was coming out of the convention. He was involved in a perpetual game of dare where he was attacked on all sides. On the free trade issue, he compared New South Wales to a teetotaller keeping house with five drunkards. "I will not put my principle of free trade in the power of Victorian Protectionists," he said. Reid rightly saw the "Braddon blot"—which, as I told you, was perpetual—as entrenching protectionism. It gave the smaller States, who would have control through the Senate, the power to enact protectionist measures and get the money back themselves.

But Reid was a skilful, pragmatic operator. Professor Crisp describes him as a patient and insistent doubter and improver. Reid played a key role in getting the Federation matter over the line while fighting the anti-Federalists in Sydney. The greatest opposition to Federation was in Sydney, rather than in the country. A majority of Sydney electorates voted against several of the proposals. At the end of the package, it was largely due to Reid that we ended up with a Senate elected by the people; a limitation on the power of the Senate to block financial bills; a provision that, where there were joint sittings following a double dissolution, an absolute and not a three-fifths majority was needed; and the Braddon blot limited to 10 years—and something positive was done about the national capital, which I'll come back to.

During this time Reid had to deal with a hostile or indifferent upper House and, for a time, Edmund Barton was the Leader of the Opposition. So we have these two pro-Federalist people, one in government and the other in opposition. Barton, who assumed political leadership of the Australasian Federal League in New South Wales, was not always in Parliament. He was more trustful than Reid of the future Australian Parliament to sort things out, he was a bit more ambivalent about free trade, he was not weighed down by the pressures of premiership and he was not as savvy as Reid about matters of public finance.

A brief gallop through the key milestones in the late 1890s, where Federation movements stalled. In March 1897 there was the Adelaide session of the second national convention. This was the one that was elected. There were three sessions, but the first Adelaide session produced a draft bill which was sent out to each colonial Parliament for comments. Within a matter of months, 286 amendments were sent back to the convention from the various parliaments. The convention then sat again in Sydney and Melbourne in 1897 and 1898. Queensland stayed right out of the whole thing. They were very divided on an attitude. Their upper House was blocking things very significantly, so they just didn't turn up at the convention.

The third meeting of the convention, which was in Melbourne in January 1898, did produce a bill which, as per the previous arrangements, would have to go back for referendums and was still quite unsatisfactory to Reid. But Reid had committed that the matter would go to a referendum, so in March 1898 there was his famous "Yes-No" speech in the Sydney Town Hall. Pollies in those days got away with speaking for 2½ hours, so he had

this speech where the bottom line was, "I urge you to vote for the referendum but, on the one hand and, on the other hand". So it was dubbed the "Yes-No" speech.

It went to referendum in June 1898 and passed by a majority, but it did not get the required 80,000 yes votes. The New South Wales Parliament—and this was part of the attempt to slow things or, in some eyes, to block things—had said that, for a New South Wales referendum, there had to be 80,000 votes from enrolled electors. It was not just a simple majority to get over the line, and this was in an era when there was no compulsory voting. So while there was a narrow majority of 71,000 to 66,000, there were 300,000 eligible voters, and that did not get the required 80,000 that was in the legislation. So there was a general election. Reid was returned narrowly. Barton stood against him, so there was a head-to-head contest in Reid's East Sydney electorate, which Reid won. Barton went and got himself elected somewhere else and ended up back in the Parliament. In January 1899, emboldened by the success in the election, Reid went back to his fellow Premiers and said, "Look, you've got to give me a better package." Seven of Reid's amendments were accepted; others were rejected.

What happened in the Legislative Council? In February 1899 there were 57 appointed life members with no party discipline and a conservative bent who were very conscious of their key position at this final stage of an uncertain Federation movement. All of the members shared Reid's concerns about New South Wales being sold out to the mendicant or smaller States. Some of them were very hostile to federation and were attacking Reid for having done a secret deal with his fellow Premiers. Some wanted unification. Henry MacLaurin, the Chancellor of the University of Sydney, tabled a petition signed by 14,000 New South Wales citizens opposing the option of the Constitution. Reid's own Attorney General, J.H. Want, left the ministry in order to have a free hand to oppose the Federal bill, root and branch, in the referendum campaign. He was allowed back after the referendum was over.

Reid, as I say, narrowly returned to office in July 1898. The Legislative Council set about picking the bill to pieces, even though the Government people were saying, "We either have to accept it or reject it, but it is a matter for the people." The legislation for a new referendum passed easily in the Legislative Assembly, but the Legislative Council rejected the bill and required there to be one-fourth of enrolled electors to vote yes. Without that, there would be rejection and, rather cleverly, it said that unless it passed in Queensland it would be deemed to be rejected in New South Wales. That was perceived to be a kiss of death at the time. The Houses were deadlocked—conference of managers. People were trying to force Reid to another general election. He started hinting that he was going to swamp the Council. At one stage in the debate in the House, a Mr Ferguson said, "You must send a sufficient number there to enable you to win. If you cannot do that, it's of no use. Mr Griffith, it would be like sweetening a sewer with eau de cologne." I am sure the Legislative Assembly would never say nasty things about the Council these days.

So what did Reid do? Parliament was prorogued and 12 new members were appointed by Lieutenant Governor Darley, four of whom were Labor, so there must have been perhaps some sort of side arrangement, because it was desperate to get Labor onside. This got the bill over the line in the Legislative Council, and so it went back to another referendum, where it passed. As I said before, 46 of the 125 electorates in New South Wales still voted against Federation. The other colonies ratified the draft Constitution in their own referendums. Royal assent was given on 9 July 1901. Thirty days later, Western Australia caught up by having its own referendum. As we all know, on 1 January 1901 the Commonwealth was inaugurated with Barton as the first Prime Minister.

The Hon. Justice ELISABETH PEDEN: I, too, was very grateful and honoured to receive the invitation to speak today, not only because, unlike my colleagues on the stage, I am not a constitutional law expert. However, what I want to talk about is a very small piece, which Anne mentioned, which is the enactment of section 7A of the New South Wales Constitution and the role that my great-grandfather had in that enactment. As you have heard, since the late 1890s the Labor Party was openly indicating that it wanted to abolish the Council. From 1911 all Labor appointees to the Council were required to pledge that they would on all occasions ensure the carrying out of the principles embodied in the Labor platform, including the abolition of the Legislative Council.

Labor's hostility to the Legislative Council was in part driven by the view that the upper House, comprised of nominated representatives at the time, rather than elected ones, was "more patrician than democratic in character, its membership reflecting the interests of wealth and privilege". As you've heard, the person who championed for the abolition of the Council at that time was John, or "Jack", Lang. In June 1925 he became the Premier of New South Wales, and in January 1926 he introduced the Constitution Amendment Bill of 1926 to abolish the Council. This was met with resistance. Members of the Council took the unusual step of dispatching a memo to the Secretary of State for Dominions, requesting that His Majesty be advised not to assent to a bill for the abolition of the Legislative Council for New South Wales until its abolition had been approved by the people.

I have a number of documents in the slides. You are not going to be tested on them, and you don't have to read them, but my staff and I had a lot of fun going through historical papers that were found either in the law courts, in the State Library, or in some suitcases in my home. That controversy ended, as you have heard, because the bill was narrowly defeated in the Council. Again, as you have heard, enough Labor members had been absent or voted against the bill, but the price of their defection was expulsion from the party. In late 1927 Lang lost the election and Sir Thomas Bavin's Conservative Government took over. Sir Thomas was determined that there should be no repetition of what he had seen in the last Parliament, where he said there was an effort to destroy the Legislative Council and to make a fundamental alteration in the Constitution of the State without consulting the people.

One of Sir Thomas's close friends was Sir John Peden, who was a key player in thwarting Lang's later renewed attempts to abolish the Council. In 1898 Sir John graduated in law from the University of Sydney with first class honours and the University Medal. He was called to the bar to read with Richard Sly, who was later Justice Sly of the Supreme Court of New South Wales. He practised in equity and probate and in 1902 became a part-time lecturer at the law school. In 1910 he was appointed as Challis Professor of Law and dean of the law school. He taught an extraordinary array of subjects, which we wouldn't do today: real and personal property, constitutional law, public international law, jurisprudence, political science and private international law. Students called Sir John "Jacko" and that's what you can see in the comic. But reports say he was held in high regard by his students, his colleagues and the legal profession.

In 1918 Sir John was appointed to the Council. Thereafter, he was apparently offered the role of Vice-Chancellor of Sydney University and could have been appointed to the bench, but he didn't take those roles. Instead, he remained committed to the Council and in 1929 became its President. Sir Thomas was concerned that Labor may win the next election and again attempt to abolish the Council, and he appears to have asked Sir John for assistance in devising a solution to prevent Lang from succeeding. Sir Thomas was also an excellent lawyer. He had also graduated with first-class honours and the University Medal in law, but a year earlier than Sir John. He also taught at the law school, had considerable experience and reputation at the bar and eventually was appointed to the Supreme Court after his political career.

However, Sir John excelled at constitutional law. Justice Evatt of the High Court said he had an encyclopaedic knowledge of Australian constitutional history. Sir John regarded Dicey's seminal text *The Law of the Constitution* with particular reverence. In fact, it was his study of Dicey that led him to an idea that could thwart Lang and his impending plans to abolish the Council. Sir John's idea is reflected in section 7A of the Constitution. Subsection (1) stipulated that the Council was not to be abolished except on a referendum; however, subsection (6) was the crucial provision which made 7A a cunningly devised bill. Absent subsection (6), Parliament could have enacted ordinary legislation which expressly or impliedly repealed section 7A so no referendum would be required to abolish the Council. What subsection (6) did was provide for the double entrenchment by extending the manner and form requirements of a referendum to any bill to repeal or amend section 7A.

The consequence was that, if Parliament sought to repeal the requirements in subsection (1) to hold a referendum for the abolition of the Council, that amending law itself would need to be enacted in compliance with the manner and form requirement of a referendum in order to be validly enacted. In drafting section 7A, Sir John had the assistance of two experienced practitioners, Attorney General Boyce, later a judge of the Supreme Court, and Ernest Mitchell, a one-time law school colleague of Sir John's who later represented the plaintiffs in *Trethowan v Peden*, an important legal decision to which I'll return. In the State Library are copies of Sir John's handwritten edits on draft versions of section 7A, which are reflected in the final version. On 16 May 1928 Sir John also moved an amendment to the bill suggesting that its long title was expressed too widely. He said:

This is not a bill to say that the Constitution and powers of this Council shall not be altered in any respect except on a referendum, but a bill to say straight out that the Council shall not be abolished, and to say that certain provisions with respect to the constitution or powers of the Council shall not be altered except on a referendum.

John's active role in shaping section 7A is apparently unsurprising given how a clerk of the law school described him. He was apparently far more at home drafting a bill or a clause than any other types of composition. Indeed, Sir John appears not to have published any scholarly work nor to have engaged in research apart from seeking helpful answers to immediate problems. It would be difficult to be an academic these days if you didn't publish. In formulating section 7A, Sir John is also said to have drawn upon suggestions by another noted Tory, Sir Arthur Berriedale Keith, whose influence is evident from an explanatory note that appears to have accompanied the bill. But despite there being a legal basis for section 7A, some considered that it was scoffed by men of legal learning. A particularly strong critic was William McKell, who considered section 7A to be an absolute absurdity. He said that for this Parliament to purport to bind future parliaments in this way is simply futile and, to that extent, the bill is not worth the paper it is written on. Another critic, Sir Thomas Henley, accused Professor Peden and other constitutionalists of shutting their eyes to the great authorities.

In spite of these criticisms, section 7A was enacted but did not come into force until 1 October 1930, which was before the general election on 25 October 1930. In between that time, Sir John had delivered an address to the New South Wales constitutional association in April 1930, which touched on 7A, which was reported in *The Sydney Morning Herald*. In that, Sir John indicated that he had accepted that section 7 could not be considered to be absolutely enforceable, as it had not been tested in a court.

In 1930 the Labor Party won the general election. Lang resumed office and sought to swamp the Council with Labor appointments to carry out his popular mandate to abolish the Council. Soon after that, Lang and then Governor Game engaged in correspondence regarding the large number of proposed new appointments to the Council. In a letter dated 5 November 1931, the Governor, who was aware of Lang's abolition plans, indicated that he had spoken with Sir Philip Street, the then Chief Justice of the Supreme Court, and Sir John. He noted that it had been pointed out to him, under paragraph 7A (6), that a bill for the repeal or amendment of the section would have to go to a referendum. In his letter he then sought advice from Lang's legal counsel. In reply two days later, Lang stated that he had consulted his law officers and included an opinion that, "There is no legal bar against the policy embraced by the people of abolishing the second Chamber." That opinion by the Crown Solicitor John Tillett stated that a referendum was not legally required, as parliamentary sovereignty precluded a legislature from binding itself into the future.

Lang proceeded with his attempt to abolish the Council by seeking to enact the Constitution (Amendment) Bill 1930 to repeal section 7A and also the Constitution Further Amendment (Legislative Council Abolition) Bill 1930, which would have rendered all the seats of the members of the Council vacant and abolished the officers. These bills were also the subject of heated debate. In one exchange, A.C. Willis, who was described as a radical industrialist and committed Christian, who had resigned his position both as general secretary of the Miners Federation and president of the Labor Party to act as Lang's representative of the Government in the Council, alleged that section 7A was tying the hands of Parliament and making members of Parliament a lot of dummies, instead of being the representatives of the people. Another member quipped, "But they are not dummies," to which Willis replied, "Some are, but not all. Some are content to be, but not all."

At this time, Sir John remained President of the Legislative Council, which was significant because the standing orders of the Council rendered the President responsible for presenting to the Governor for royal assent a bill initiated in the Council after it had been passed by both Houses. Lang's Government, therefore, feared that if the bills were to pass, Sir John might refuse to present them to the Governor for royal assent. In an article in December 1930 in *The Labor Daily* it was said that Peden was against the people, and there was a concern that he would not present the bills for assent if they passed. There was also a concern about the cost to the people of a referendum in the vicinity of \$80,000 or \$90,000.

It was also reported that the Lang Government Ministers were considering dismissing Sir John from the position of President in the event that he refused to send the bills for royal assent. Alternatively, the Lang Government was considering commencing proceedings to seek a writ of mandamus compelling Sir John to present the bills for royal assent. However, it was a race against time because in the meantime members of the Legislative Council were also concerned and they wanted to ensure that these bills would not be passed without section 7A being tested for its validity.

The Governor sent a cable at the request of Lang's Government asking for forthwith assent to the bills. In the meantime, proceedings were commenced in the Supreme Court with Sir John named as the President on the basis that he might present the bills for assent, and that would be contrary to the Constitution. Key in the basis for the legislation was Sir John's refusal to say what he would do, so he was asked by a member of the Legislative Council whether he would present them or not. He said, "I decline to answer." He was asked again by the lawyer, and again he said he refused to answer.

On 11 December 1930 the matter came before Justice Long Innes. He granted an interim injunction preventing Sir John from presenting the bills for signature by the Government. Apparently, the next day Sir John wrote to the Crown Solicitor asking for the Crown Solicitor to represent him as he was a named defendant. That was refused because the Crown Solicitor was representing Lang. When the matter returned to the court, it was being returned in front of a five-member bench. That had not occurred for 25 years. The bench was Chief Justice Street, Justices Ferguson, James, Owen and Long Innes. It lasted four days. The court worked hard. On 23 December 1930, by majority, judgement was given that section 7A had been validly enacted and had to be complied with. But the saga did not end.

On 6 January 1931 the Lang Government sought to appeal to the High Court. Leave was granted. By a narrow majority, the appeal was dismissed. In dissent was Justice McTiernan. That may not seem surprising as he served as the Attorney General in Lang's first Government and apparently had played a lead role in Lang's attempts to abolish the Legislative Council. He was the person who travelled to London to persuade the Secretary

of State of the Colonies that the Governor must accept the Minister's advice on the matter. Justice Evatt did not sit. That was because he had represented Lang in the Supreme Court and in the meantime had been appointed to the High Court. But that still was not the end.

Lang brought a further and final appeal to the Privy Council and on 31 May 1932, five Law Lords dismissed it. That meant that Sir John's view as to the efficacy of the section 7A provision, which he had drafted, was vindicated. Apparently, after that, an administrative officer in the law school showed visitors to the place in the library where, apparently, he came up with the idea. I do not think that still happens. Meanwhile, as you know, Lang did not fare so well. A few weeks earlier on 13 May 1932, he was removed from office by the Governor exercising his reserve powers, but that is a whole other story. As you have also heard, a number of other reforms took place in the Legislative Council concerning who was elected, how they were elected and the like. Sir John continued to serve as President until April 1946. He was a member of the Legislative Council for nearly 30 years, including 17 years as President.

On 1 May 1946 a lunch was held here at Parliament House for Sir John's retirement, which ended up being a few weeks before his untimely death. In responding to a toast in his honour, Sir John spoke of the State's Constitution and the changes of which he was part. He said, "What will ultimately prove to be the best constitution for New South Wales, or for Australia, no man can forecast. Time and long experience will, I trust, help the people of this State and the people of the Commonwealth to obtain the best constitution at the time it is needed." I echo that sentiment. We do not know what challenges lie ahead, but we can gain insights from looking backwards.

On a personal note, when I was invited to give this talk, I confessed I knew little about section 7A beyond what I'd studied at law school a number of decades ago. But looking into the history, I've enjoyed coming to know my great-grandfather, whom I never met, through the various documents. I've also been humbled and delighted to learn that, unwittingly, I have followed somewhat in his academic and professional path. However, the closest I have come to sitting in Parliament is during wonderful conferences such as this. I hope you enjoy the rest of the conference. Thank you.

The Hon. SUSAN CARTER: We have time for two quick questions. It is possible, if you're listening on the live stream, that your questions will be picked up by the staff. There are roaming microphones. Perhaps you could indicate by raising your hand if you have a question for one of the speakers. It is always a sign of a fantastic presentation when all of the questions have been answered.

AUDIENCE MEMBER: As there are no other questions, I will just make a quick little comment. Today I got a real-life Constitutional Clarion talk. I wanted to quickly thank all of you, especially Professor Anne. The YouTube channel that you made really helped me out. I am currently going through homeschooling full-time and the YouTube channel that you have is one of the most unique YouTube channels around. It has helped me so much going through homeschooling in a system where those resources aren't normally available. Thanks to the work that people like you are doing, I was able to learn so much. I was able to go into Youth Parliament and serve as the youth Deputy Premier and speak in the Chamber. I just wanted to say a quick thank you for that.

Professor ANNE TWOMEY: Can I just respond and say thank you very much for advertising for me. If anyone here wants to know, the YouTube channel is called the Constitutional Clarion. I do lots of contemporary constitutional discussion of bills and cases. There is a little bit of history. I did a little series on the Lang Government and the various attempts to dismiss the Legislative Council and, of course, Lang's dismissal. If anyone is interested in that, it is available for all of you, free of charge.

The Hon. SUSAN CARTER: Professor Twomey, I was fascinated by your comment in relation to the way appointing the first Council allowed for more diversity. I wondered whether any of you had comments about the importance of diversity in the Legislative Council in terms of its role as a house of review.

Professor ANNE TWOMEY: It was certainly the case that there was a greater variety of people appointed to the Council than there were in the early elected Legislative Councils. It also became an avenue for women to join upper Houses as well, which I think was a really useful thing. It is sort of interesting. I think it comes back to a comment that was made earlier today—when I caught the end of the previous session—that while on the one hand we think of appointed upper Houses as anti-democratic, on the other hand, appointed upper Houses can be used to get in not just greater diversity but also greater expertise. Ideally, that is what an upper House should be for. I had often thought that the system with the Canadian upper House and the House of Lords, if they were run properly in terms of how they were appointed—and neither is—theoretically would be great because you could draw into the upper House people with genuine expertise in a whole range of areas and have diversity of people and knowledge and then use that genuinely as a form of review of legislation. There are aspects of it in both Canada and the United Kingdom. You do get some genuine expertise there.

The problem is that all of those systems tend to be corrupted into "Let's put our party mates on instead." That is the problem that always takes it over. If, however, you had a strong constitutional provision and a system that prevented that, theoretically an appointed upper House could be a good thing. But we would also probably appreciate that the people themselves would then feel that they were denied that role in choosing and there would be a lot of resistance to it, I suspect.

The Hon. KEITH MASON: I just add that the vast number of people who work behind the scenes in the Legislative Council bring a huge amount of diversity and expertise to assist the members.

The Hon. SUSAN CARTER: I certainly endorse that comment. Absolutely. Is there a question?

The PRESIDENT: Two comments, actually, to Justice Peden. The first is—and I think I speak on behalf of all of my current colleagues in the Legislative Council, including, I suspect, all Labor members—to say thank you so much to your great-grandfather for the construction of section 7A. We are all profoundly grateful. The second is with regard to your comments about the replication of your career to your great-grandfather's, particularly through academia and the law, but not yet through politics. I simply say: There is still time.

Mr DAVID BLUNT: This is a somewhat cheeky question. I noted in Justice Peden's presentation reference to the Crown Solicitor not being able to represent your great-grandfather because the Crown Solicitor was already engaged by Premier Lang. My question to the panel is would you like to provide any commentary perhaps on the roles over the years of the Crown Solicitor, perhaps even Solicitors General, in relation to constitutional matters in relation to the Legislative Council and the Executive Government?

The Hon. KEITH MASON: In my defence, I was instructed by the Crown Solicitor to appear for the Government against the Legislative Council, and I don't regret that. It was a lot of fun.

The Hon. SUSAN CARTER: I think on that note we might thank our panel for a very enlightening and engaging discussion.

Ms JENELLE MOORE: Thank you again to our panel. I also thank Mrs Carter.

(Luncheon adjournment)

**THE BUSINESS END OF THE DEMOCRACY SAUSAGE:
ELECTORAL SYSTEMS IN NEW SOUTH WALES AND THE RISE OF THE CROSSBENCH**

Mr ANTONY GREEN, AO, Chief Elections Analyst, Australian Broadcasting Corporation

Dr PETER PHELPS, former Member of the New South Wales Legislative Council

Ms JENELLE MOORE: Welcome back, everyone. We have a fantastic afternoon planned for you, kicking off with our next panel. To introduce our speakers, it is my great pleasure to introduce the Hon. Sarah Mitchell, MLC. Sarah is a member of The Nationals and the Deputy Leader of the Opposition in the Legislative Council, shadow Minister for Education and Early Learning, and shadow Minister for Western New South Wales. In the previous Government, Sarah served as Minister for Education and Early Learning, and Minister for Aboriginal Affairs. Sarah is now, and throughout her parliamentary career has been, a very active member of our committee system, where she served alongside Dr Phelps and, I imagine, has some pretty colourful stories and memories from that time. Please join me in welcoming the Hon. Sarah Mitchell to the stage.

The Hon. SARAH MITCHELL [Member of the Legislative Council]: Don't worry, Dr Phelps, I will save those stories for when we are offline; they will be more interesting then. Thank you for the very kind introduction, Jenelle. Welcome, everybody. I hope you've had a great morning. It sounds like it has been going very well, and we have an exciting afternoon planned for you too. It is my pleasure to introduce the next session, which will examine the evolution of electoral systems in New South Wales and the rise of the crossbench. In the past half-century, the New South Wales upper House has become a popularly elected body based on proportional representation. As a result, the Legislative Council has had to evolve to adapt to its changing membership and functions. One way that the Council's membership has evolved is through the prominent growth of minor parties and Independent members. This rise has been accompanied by a shift in the traditional assumptions surrounding the role of the Parliament. To explore this shift in greater detail, allow me to introduce Antony Green, AO, and Dr Peter Phelps.

Antony, I will start with you. As you would all know, Antony has worked for the ABC since 1989 as an election analyst. He has worked on every Federal, State and Territory election over the past 35 years, which is around 90 in total, which is amazing. In our house, I don't think it is election night unless Antony is on the screen, and when he calls it, you know that's the result. It doesn't matter what the Electoral Commission websites say. There is no better introduction than that. In addition to working on Australian elections, he has also covered elections in the UK, New Zealand, Canada and the USA.

Antony was involved in designing the ABC's election night results computer and election website. He has also designed interactive tools to model election results, as well as a Senate election calculator that has revolutionised coverage of Senate elections. For three decades, Antony has also produced publications for several State parliamentary libraries. In 2006, he researched a substantial website for the Parliament of New South Wales, documenting the State's electoral and political history. He also writes a popular blog on electoral matters. Antony has contributed to the public debate on politics through submissions to parliamentary inquiries, attending political science conferences and making speeches at political forums. Please join me in welcoming Antony Green.

Now to Dr Phelps. Dr Peter Phelps is a former member of the New South Wales Legislative Council who served from 2011—we both came in together in that election—to 2019. He was also the Government Whip. He holds a PhD in Australian history and has taught at the University of Sydney and the Australian Catholic University. Prior to entering Parliament, Dr Phelps served as a senior Federal political staffer in the Howard Government. Most recently, he has worked with UNSW Canberra to develop postgraduate courses on evidence-based policy, Executive government and dealing with policy creation within the environment of minority government. If you have any spare time, I encourage you to go back and look at the *Hansard* from when Dr Phelps was in the New South Wales Legislative Council. I don't think we had a wittier or quicker member on their feet, and some of it is definitely worth having a look at and having a chuckle. Please join me in welcoming Dr Phelps. I will now hand over, and we will have some questions shortly. Antony, over to you.

Mr ANTONY GREEN: I brought a few props. Do you want to bring that one up here? This is something that when I speak on electoral systems I always end up having to discuss at some point. This is, for those not familiar with it, the ballot paper we were all given on election day in 1999—the infamous tablecloth, which I will come to a little later. There are a few other things to do first. You talked about 90 elections; of course, for all that time, I have been preparing books of notes for the ABC. A lot of it appears now on the website, but I am actually, early next year, depositing them all in the National Library of Australia as PDFs for people to use—a book of

notes on every State, Federal and Territory election since 1990 for people to peruse. Having done work on past elections and having to slog through old microfilms of newspapers and wishing there were some contemporary notes to use, I am hoping that what I am depositing in the library will be useful that way.

Before I was working in politics and elections, my background was in science, originally. When I was in my early 20s, I was a keen reader of essays by palaeontologist and evolutionary theorist Dr Stephen Jay Gould. Many of his essays dealt with the role of contingency in evolution. Further evolution of organisms is often limited by the inherited toolkit of characteristics passed to it. Gould and his evolutionary writings are something I always keep in mind when I am thinking about political institutions and electoral systems.

Books on electoral systems classify electoral systems by type—single member versus proportional representation and further subdivisions being the most obvious—and outline how the different systems work against a set of principles for representation. Books on electoral systems tend to be very functional in their approach, whereas I freely admit to the academic sin of being terribly bound to historicism and, more often than not, electoral systems and their current form is explained more marked by their development and their history than any classification to electoral systems.

There are key points in the evolution of electoral systems and institutions of Parliament and the like where the toolbox can be changed but, beyond that point, evolution tends to take place within that constriction that's been put on in the first place. If you talk about the New South Wales Legislative Council, there are three key points which determine how the Council is today. One was an 1850s decision to make it an appointed Chamber, which determined that it didn't end up being abolished. The two key dates after that were 1933 and 1978, the two years that the Council was reformed. What's interesting is in between those dates the systems tended to develop by evolution, either by the players learning the rules of the game and taking them in ways people hadn't expected when they designed the system, or simply by the need to change for other reasons which causes change in the system.

I'll start my talk by stating perhaps the controversial view that State Legislative Councils are something you inherit rather than invent. State Legislative Councils exist because bicameralism was adopted by the Australian colonies in the 1850s. Once created, Legislative Councils proved difficult to abolish and instead, over many decades, they evolved into democratic forms. It is significant that none of the three Parliaments since created by the Commonwealth, which is the ACT, Northern Territory and Papua New Guinea, were given upper Houses. That tells you something about why they were adopted then and why they're not adopted now.

My comment on inheritance does not apply to the Commonwealth Senate. State experiences with bicameralism was a guide to the Senate's form, especially in the adoption of the same franchise as the lower House, which was a radical step considering at the time none of the Legislative Councils were properly elected. The liberals who were at the conventions insisted that, if the upper House was going to be elected, it should have the same franchise as the lower House. It should not have the restricted franchises that applied in many States at the time. That was also why, as was discussed earlier this morning, the first drafts of the Constitution were amended to make popular election by the end of the process. But there is a key provision in the Australian Constitution that quite specifically states that when the Commonwealth adopted a franchise, it would be the same for both Houses, and that did not apply in any of the States for a very long time, varied from State to State.

The other point about why inheritance does not apply to the Senate is it was a clearly designed institution. Bicameralism in Federal Parliaments in Federal nations is actually relatively common. If you've got a nation which is subdivided into regions, those regions have some form of different representation in the upper House of Parliament, and most federations have something of that form. Creating State versions of the House of Commons in the 1850s was fairly obvious, though it was implemented more radically than the Colonial Office expected. The influence of early nineteenth century chartists in Britain had a huge influence on development in Australian democracy. There was the early adoption of manhood suffrage and the secret ballot—which, of course, came in here in the 1850s, decades before Britain. Manhood suffrage was many decades before Britain; it was after the First World War. Payments of members came slightly later. The votes for women, the abolishment of plural voting—all these things came in the nineteenth century.

Often one of the sad things about Australian political history is that not enough attention is paid to the experiments from pre-Federation days. Most of the electoral institutions Australia developed and have been exported to the world were from the colonial period. The two big changes in Federation times—which is compulsory voting and preferential voting—have not spread, so people sort of discount the experimentation of the colonies and ignore the record of what happened since. Of course, they then came to create Legislative Councils in the 1850s—and this has been dealt with earlier, with the example of the bunyip aristocracy and why that was rejected. What emerged were appointed Legislative Councils in New South Wales and Queensland, and Legislative Councils with a restricted franchise in the other colonies.

These acted as bulwarks against an excess of democracy in the lower House. They were there to represent established interests, which at the time usually meant landed interests. To paraphrase Edmund Burke, they were acting as a bond between the dead, the living and the yet to be born. I'm being provocative about that, because, actually, the Legislative Council, in fact, didn't act as a bulwark against land reform in the 1850s in New South Wales. As I think was discussed this morning, there was an argument about stacking the Legislative Council when it wouldn't support reform. And when you look back at the 1850s and what they did with land laws in 1859 and 1860, you would blanch if you tried something that radical today.

As many have noted, the appointed Legislative Councils proved easier to reform or abolish. The Queensland Legislative Council was abolished in 1922, and the New South Wales body only just avoided the same fate later that decade. That abolition attempt and the more radical actions of the Lang Government between 1930 and 1932 led to the entrenchment and radical reform of the way the Legislative Council was appointed. Yet in the other States, Legislative Councils with restricted franchises were always able to claim some form of electoral mandate to their existence and provide greater protection against reform.

The fear of claiming a popular mandate is again raised these days when you hear any discussion about reform of the House of Lords. The upper Chamber in Britain has become rather assertive of its rights in recent years, even doing things which in this country have become normal, which is demanding papers and demanding documents. Even doing that is considered radical in Britain, let alone having a mandate from popular election. It's interesting to see the debate that's gone on with Legislative Councils in Australia repeated in Britain more recently. Let me come back to New South Wales. As I said, there were two key points in New South Wales electoral history when the Legislative Council was reformed, and they have determined how our Legislative Council has developed since.

In 1933, what happened was that to reform the Legislative Council, they introduced a form of indirect election. It was a proposal from something called the Bryce Committee of the House of Lords, on House of Lords reform, during the First World War, and it recommended a form of indirect election where the Parliament itself acted as the electorate, to indirectly elect members. It would mean that the Council couldn't claim a mandate, but it would ensure that it was reflective of the rest of the Parliament and, along with staggered terms, would make it the sort of Chamber that would only change slowly. It would be able to reject the sort of radical steps that the Lang Government was trying to do in its term in office.

What I'd argue is that the 1933 changes, in fact, isolated New South Wales from the debate that was going on in other States. During that time, there were disputes between upper and lower Houses in Victoria, Western Australia, South Australia and Tasmania: arguments over rights to block budget bills, rights to block other bills, whether there should be some sort of conference of managers, whether there should be resolution disputes, à la the Commonwealth double dissolution power. There were also disputes which were essentially about trying to make the Legislative Council more representative, and there were several points I'd just like to point at, because these debates didn't happen in New South Wales. In New South Wales, these debates came up with the introduction of popular election in 1978.

These were broadening the franchise; conjoint elections—holding Council and Assembly elections at the same time; removing malapportionments and gerrymanders for the upper House—those things have a long history in Australia, but they were generally worse in upper Houses; whether there should be proportional representation; and whether there should be an end to staggered terms. In Victoria, adult franchise, compulsory voting and preferential voting were extended to the Councils in the 1950s. Western Australia introduced full adult franchise in 1963, Tasmania in 1968, and South Australia in 1975. It seems remarkable today to think that fifty years ago, they were still having an argument about whether upper Houses should have full franchise.

Conjoint elections were a mechanism to tie upper House elections to the party forms of the lower House. If you hold an upper House election at the same time as the lower House, then the structure of the election debate is over the party contest for the lower House. That's why, after several separate half-Senate elections in the 1960s, no Parliament since 1974 has dared to hold a separate half-Senate election. Other issues intrude on the campaign in a way which governments find very unattractive. One of the ways of getting rid of the Independents in upper Houses—some of these upper Houses have had a long history of Independents—was to make sure their elections are held at the same time.

Conjoint elections were introduced in Victoria in 1962, South Australia in 1975, and Tasmania continues as the only State with a separate date for Council elections. They hold two or three Legislative Council elections every year. There are three individual electorates in different parts of the State, with strict rules on expenditure, strict rules that prevent parties spending money if they campaign for them, and held at a different time. It's the only Council in the country which continues to be dominated by Independents rather than by political parties. Although, political parties have been making inroads into the Council in recent years.

Western Australia modified its system in the early '60s from six-year terms with three member divisions to one member elected every two years, which meant, every term of Parliament, there would always be a separate Legislative Council election at some point. That, along with broadening the franchise, was introduced together in the early '60s. Although, technically, the Legislative Council is the only Chamber on the mainland which is not tied to the term of the lower House. They technically still have a separate date but, for a variety of reasons, they always hold them at the same time in the same way. The House and the Senate have separate terms, but they always hold their State elections on the same day.

Malapportionment in Legislative Councils, which tends to be much larger in lower Houses, took longer to disappear. The Tasmanians finally got rid of it in the 1990s, but not before a rather strange debate which came very close to seeing the whole Legislative Council elected at once. It was revealed that, on legal advice, if the Legislative Council had to be elected all at once, the Constitution would cease to exist. Tasmania doesn't actually have a real Constitution. It's like a subset of a British Act. Anyway, that's Tasmania; there's always something odd happening there. In March next year the last of the malapportioned upper Houses will be abolished when Western Australia abolishes its six regions and moves to a statewide election. It will be a very interesting experiment when it comes to it next year, and I'll mention why later.

How did New South Wales go with its indirect election? As I said, all those debates on those other issues didn't arrive in New South Wales until 1978. The first election with indirect election occurred in 1933. There'd been a referendum to reform the Council to be 60 members elected for 12 years, with one-quarter elected every three years with separate terms. So the lower House had members elected at an indirect election. For much of that period, there were 90 members of the lower House and 60 members of the upper House. There were 150 members to vote at this election by proportional representation to elect the upper House. If you work that out, there were 15 positions, 150 members, so about 9.1 votes to get elected into the upper House. Because there were so few votes, when the votes were counted, they'd multiply them all by a thousand. One vote became a thousand votes, and then they could do fractional distribution of preferences. The reports of the distribution of preferences are very odd, I will tell you. One day I'll publish them for everybody. It's very strange.

Now the election was under PR-STV, as I said. It was very similar to what New South Wales used in the 1920s and what Tasmania used prior to the war. New South Wales did actually use proportional representation for three elections from 1920 to 1925. The ballot paper, in those days, was the names just listed in alphabetical order. There were no party names. There was no grouping. The first election was full preferential voting. They got 10 per cent informal votes that probably went to optional at the next election.

Tasmania used a very similar system but, until the Commonwealth came along in 1949 with the Senate, it was a rather unknown system. The first election was held in 1933. There were 126 candidates nominated. You didn't have to be a member; you had to be nominated and seconded by somebody who was a member of the House. At the time, the Legislative Council with stacking had reached something like 130 members. The lower House had 90. There were 126 nominations from various numbers. Members could only nominate or second a single member, so there was always a lot of strange rules about this. They held four elections a fortnight apart. The first election had 126 candidates for 12-year terms, electing 15. The remaining 111 went in a fortnight later for the next nine-year terms, and so on, until you got to the three-year terms at the fourth election. The new Council took its position early in 1934.

Over the next five elections, between 1936 and 1949, the number of candidates varied between 25 and 33, but from that point on there was a sudden change. For the 15 vacancies at the nine elections between 1951 and 1976, the number of candidates varied between 16 and 18. Both parties suddenly cut back the number of candidates. I'll explain why. We're probably all used to the Senate system. Someone has 2.7 quotas; that's two quotas with 0.7 left over, and it flows on in preferences et cetera. If you've got a contest between a party with 2.7 quotas and a single candidate with 0.8 of a quota, you'd get two from the first ticket and 0.8 beats 0.7 for the last seat. That's how we work in the Senate, and over the years Tasmania has moved to this system.

We have rules that candidates appear in groups and we have rules on the minimum number of preferences. Between-party preferences isn't a problem in the Australian system. If you go to Ireland—it uses a very different system but lists everyone in alphabetical order—parties only stand as many candidates as they can elect members, because the most efficient way to run the Senate-style system is to split your vote across the candidates. If you have 2.7 quotas of votes, what if you can split those votes so each of your three candidates has 0.9? Then your three candidates at 0.9 would beat the candidate on 0.8, and you'd end up with three and they'd end up with none. That's what happened in the Legislative Council over those years.

In the 1951 Legislative Council election, with 150 members voting to elect 15 members of the upper House, the 15 retiring members got to vote. It's actually quite fascinating. The election was held before their seats became vacant. One candidate polled 11 votes, another nine polled 10, and there were two with nine, three with

seven, one with six and one with four. What was going on here? One reason was this splitting up of the vote to ensure that it was maximised. The point was that if a party could put all its votes into a single candidate, it maximised the number of members elected. These parties were competing for maybe only one or two seats. You knew how many members there were, 150, and you were pretty confident with their party representation. If you could arrange to split the votes, you'd do it that way. That is extraordinary. If you've got nine candidates with 10 votes and they've all got a surplus, which one do you exclude first? What they did was take all the ballot papers and they'd count them all. "Where's their second preference? Where's their third preference? Where's their fourth preference? Where's their fifth preference?" Amazingly, one, two, three, four, five—they all had the same number of votes at every preference. This is amazing! How did this happen?

Well, what happened was the parties learnt to manipulate the system. In 1949, at the Legislative Council election, four Labor Party members didn't vote the right way and an Independent got up. The Labor Party expelled those four members ahead of the 1950 election, and I will mention their names: Jack Geraghty, I think it is; Fred Stanley, the member for Lakemba; Jack Seiffert, the member for Monaro; and S.R. Heferen, the member for Barwon. They all lost their seats. Sorry, two of them lost their seats. Seiffert was re-elected. Labor couldn't find a candidate to run against him so they readmitted him. But Geraghty, in North Shore, won his seat. As a little sidelight, one of the things Geraghty campaigned on was the liquor interests. He wanted registered clubs to have licences and he wanted them to have poker machines, and a royal commission came out of that. One of the consequences of excluding those four members and the hung Parliament it produced in 1950 was poker machines in clubs. That is a little sidelight there, but nothing to do with the Legislative Council.

What happened at the next election? The Labor Party had got control of the Council late in the 1940s. As I said, these are staggered terms. Every time there was a by-election, if you had the majority of all the numbers you could grab a seat off the other side. If it was a Liberal member who died and Labor had the majority of seats, you could grab that seat. That is one of the reasons the numbers changed. The second is that when one of these elections came around, the increasing Labor representation in the lower House in the 1940s gave Labor the advantage to get more than half of the seats at the proportional representation election, so Labor had got control of it slowly.

But after that 1949 election, when there was a vacancy the next year and they were dead keen to win the seat, the Labor Party nominated eight candidates against the Liberals. Why did they do that? Think about this. This is mathematical. If you've got five candidates contesting an election, you think about numbers. There are five options for your first preference. Having given a first preference, there are four options for a second, three for the third and two for the fourth. Five multiplied by four is 20, multiplied by three is 60, multiplied by two is 120. If you've done five candidates, there are 120 different versions of a how to vote card you can distribute. Every member was given a how-to-vote card to follow.

When they held the election for the upper House, all the members went into the Legislative Council Chamber and into little private booths. It was a secret ballot. But when they counted the votes, someone would be sitting there tallying every ballot paper they saw. Did they follow the how-to-vote card? After 1949 the Labor Party did that. At this by-election they nominated all these different candidates to make sure that they won that seat and that nobody ratted on the ticket. At the subsequent elections, the reasons for cutting the numbers and then producing these strange results where everybody got the same number of votes were, one, to check the how-to-votes and, two, to determine the order of exclusion. This was all, again, to try to get that extra seat at the end.

Generally, the Coalition didn't respond to this. But after the attempts at upper House reform in 1961, a bunch of members went to the Independent Labor bench and it became a bit more complex. What happened at that point is that it became much more complex when a vacancy came up. There was a famous by-election in 1965 just after Askin came to power. Another way to get someone to cross the floor was that there was an Independent Labor whose name, I think, was Cyril Cahill. The Labor Party nominated his brother on their ticket, and they got one extra vote somewhere in that vote. That tied the vote, and then Labor won the seat in a draw from a hat.

The Askin Government was so furious that when there was another by-election four weeks later, Labor nominated five candidates and the Liberal Party nominated five candidates—one vacancy, 10 candidates, five from each—for the same reasons. So the tactic was copied. Over the years the Legislative Council became completely irrelevant to an extent like that. You get situations where they wanted to appoint Neville Wran as leader in the lower House but that would create a vacancy in the upper House. So they appointed a Liberal to a judgeship so that there were two positions, and they both got one if they held the election by proportional representation. So there were fewer and fewer elections.

Then along came 1978. What happened in 1978 was that the Wran Government came to office. To backtrack, learning from other States, the Commonwealth had introduced preferential voting in the lower House

in 1919. It created a problem for the Senate. They needed to number the Senate ballot paper. In 1924 they introduced tickets. They weren't the same way we have them now, but they were down the ballot paper. Candidates were listed in alphabetical order. Groups were allocated in a complex formula, which looked at the letters of all the candidates on the ballot paper and allocated a column. In 1937 the Labor Party nominated four candidates for the Senate whose names all began with the letter A, so they got the first column on the ballot paper. They introduced a new formula for that and, in 1940, they completely restructured the ballot papers and put them in columns. They had a random ballot for drawing columns and also allowed the parties to determine the order of candidates. That last point didn't seem relevant until 1949 when they introduced proportional representation and parties were then able to determine the order in which their candidates were elected.

After that, the next State to move to proportional representation was South Australia after an enormous battle. Their first attempt was with a form of list-PR, not the preferential voting system we're used to using. As with New South Wales, they brought in the franchise statewide electorate. This system was a proportional system with only one preference. I won't go into too much detail here, but that was the first State experience of proportional representation.

In New South Wales Neville Wran first proposed the South Australian system. The Coalition had kittens. They didn't like it. They wanted the Senate system. So the Wran Government moved to that and did a couple of compromises, which resulted in the Coalition giving away control of the Legislative Council at the first election by agreeing how many continuing members went on. The Wran Government, and South Australia also, were concerned about the giant ballot paper in the 1974 Senate election and the high informal vote at Senate elections. They wanted to ensure the informal vote was lower, so New South Wales went for optional preferential voting, and had strong provisions for errors to save votes.

But they made the fatal error of adopting the entire Senate counting system of the day and sticking in schedule 6 of the Constitution Act, including, as Peter will know, random sampling to determine distribution of preferences. New South Wales, despite moving to computerised counting, must use computers to improve the accuracy of the random sampling. I won't go too much into it here, but it's a good example of "You don't put too much detail in the Constitution". The quota was 6.25 per cent. Four-year terms were added in 1981, which meant the Council was going to be three three-year terms. Adopting four-year terms took the term out to 12 years. This was viewed as unacceptable.

What happened after that is that the Senate was then changed in 1984 with the introduction of above-the-line voting and the introduction of group ticket votes. South Australia moved to group ticket votes and the Senate-style system in 1985. New South Wales adopted group ticket votes in 1988, but if a party lodged a split ticket, it would have to have two boxes above the line. But as there were no party names on the ballot paper, because New South Wales didn't adopt that, what were these two boxes there for? No-one tried that, and in 1991 there was a referendum held in New South Wales. No-one mentioned the actual wording of the referendum. Ted Pickering was always proud of this. The referendum question was:

Do you approve of the Bill entitled 'A Bill for an Act:

- (a) to reduce the number of politicians in the Legislative Council and to reduce their maximum term of office

Ted reckons that was the cleverest wording of a referendum ever. It passed, so we went to two 21-member rotations. I'll just have to quickly go through the rest of this because I've been talking too long. What has happened since is that the other States have followed the same form. Western Australia adopted proportional representation but with regions and group ticket votes in 1989 but abandoned rotations. In 1995 in New South Wales, we had the election of Alan Corbett from A Better Future for Our Children from 1.3 per cent because of group ticket votes. It wasn't a rort; it was just everyone thought Alan was a really nice man and gave him preferences. He spent so little on his campaign, he couldn't claim all his public funding.

We had the famous tablecloth in 1999, when the failure to amend the party registration rules and group ticket voting produced a lottery for the final seat. New South Wales then moved to abolish group voting tickets. That has since been copied federally, copied in Western Australia but still remains in Victoria, though they are moving to abandon it. South Australia has since abolished group ticket votes. Everyone has moved to the new Senate system, which was first introduced in New South Wales. As I said, Western Australia in the new year moves to the Senate-style system, abolishing group voting tickets but with 37 candidates. It will be interesting to see how that works. I think it might be a complete disaster. The ballot paper could be that size, and how the hell they count it, I don't know; you can't get scanners that big.

But where has it left us? I've brought my ballot papers so I have to show them. That's the Senate ballot paper from 2013, where the Senate couldn't put them on rows, so they had to shrink the font size. That was the one where Liberal Democrats won in column A because the columns were so narrow it was put over two rows. So people could read that ballot paper, they issued these magnifying sheets, if anyone remembers that. Where

does New South Wales end up? It ended up with this, which I like to call the "mutant lotto form". For an upper House ballot paper, it has twice the informal voting rate of every other State because what do you do with that? I think we should look at instructions. But we are tied because of the way the constitutional details are entrenched so that a group, if it runs and wants a box above the square, must stand 15 candidates.

If you ask me, "Where does the New South Wales Legislative Council go and can it learn and evolve from experiments interstate?", to me, one, it would be to rewrite schedule 6 to remove some of the ridiculous detail that's there. The other would be do we want to keep staggered terms for the Legislative Council? Are we happy to have a very low quota and a very large crossbench? To some extent, that comes down to the issue which has never been dealt with with Legislative Councils: All right, we democratised them, but what are their powers supposed to be? Should it have the power to block all legislation, or should it only have delaying powers? One of the arguments I think in favour that might occur, if you move to a fully proportional system, is it might raise the issue more about at what point does the Legislative Council continue to have power and at what point does it become a delaying and reviewing body.

Council's main roles that it does is actually committees, and the Councils have forced committees and estimates committees on governments around the country. The Legislative Council has a lot of powers. Does it still need the powers to destroy a government or can its powers be altered? I suspect, if you raise that, you raise the spectre of 1975, so that's not going to happen. I suspect the New South Wales Legislative Council is a bit stuck with its system until some sort of compromise can be made about fixing schedule 6 in particular so that they can use computers to count the result accurately rather than get the random sample correct. Thank you.

Dr PETER PHELPS: Good afternoon, everyone. I agree entirely; we're on a unity ticket there. As a former chair of the Joint Standing Committee on Electoral Matters, we tried to get that changed, but it requires a constitutional referendum and no government wants to have one of those. Today I'm talking about the rise of the crossbench—the reasons and responses. Before I start, I'd like to thank President Ben Franklin, David and Jenelle for putting this conference on. Thank you all for coming along to it. I'd also like to thank someone who isn't here, Matthew Mason-Cox, who was one of the early progenitors of an idea for a bicentennial conference.

Political scientists tend to focus on Premiers and the Executive and don't tend to talk much about minority government. Public administration theorists treat politics as something that ruins good policymaking, and they don't generally look to the role of individual parliamentarians. As Professor Robert Rhodes has noted on many occasions, policy scholars treat the parliament as though it's marginal. Today I want to talk about the crossbenchers in Parliament, particularly their current electoral popularity—why did it occur, what does it mean and what does Executive Government do about it?—and the consequences for what I believe to be entrenched minority government in Australian parliaments in the future.

Firstly, however, I should explain what I mean by the crossbench. They are the Independent or minor party MPs who do not make up the Government or the official Opposition benches. They're called the crossbench because of where they sit in the parliamentary Chamber and not because they're cross all the time—which they are anyway. They sit in between the benches. In New South Wales, particularly in the Legislative Council but also in the Legislative Assembly, there has been a massive rise in the crossbench. Growth over the past 50 years has been notable and dramatic.

The actual numbers for the upper and lower Houses can be seen on this slide—red for the upper House and green for the lower House. I've also added trendlines. Noticeably, there's a higher rate of growth in the Council. But, interestingly, both are going up—in the Council in particular, because you only need 4.5 per cent of the vote, roughly, to get a quota to get you into the upper House. In many instances, towards the bottom end of the tail—position 21, 20, 19 and even 18—you can get up on a sub-quota amount. That has led to some in the major parties saying, "Well, we should amend the system so that you have to get a quota before you can become a member of Parliament." Unsurprisingly, that hasn't gone very far because of the reaction which would be engendered by that.

So who are these crossbenchers? Well, there are defectors from existing parties. A person is elected as a Labor or Liberal or One Nation member of Parliament and then decides they're jack of the party, flips the table and goes and sits as an Independent. They are not elected as Independents in the upper House in New South Wales. The upper House in New South Wales has always had a party structure. You get Independent crossbenchers in the lower House only being elected as Independent crossbenchers. You get minor party crossbenchers in both Houses, but more particularly in the upper House. In that period of time since 1981, we've had the Christian Democrats; the Australian Democrats; The Greens; the Shooters, who became the Shooters and Fishers, who then became the Shooters, Fishers and Farmers; A Better Future for Our Children; One Nation; Reform the Legal System; Unity; Outdoor Recreation; Animal Justice; Legalise Cannabis; and the Liberal Democrats. That's a fairly diverse cohort.

The question is why, after this period of basically bi-party stability, they are on the rise. There are three answers normally given. The first, and I believe the weakest, is mistaken identity, where parties have too-similar voting names. A person who goes into a ballot box is generally disinterested in the election process and the upper House ballot paper is large, unwieldy and complicated, so the voter allocates their first preference to the first party they see with an iconic word in their name—so voting for the Liberal Democrats when they thought they were voting for the Liberal Party or voting for the DLP when they thought they were voting for the Australian Labor Party. I think that's a really weak argument.

Secondly, distrust of major political parties is an often-cited reason. Who can forget the well-worn mantra continually espoused by Don Chipp and the Australian Democrats of the need for a group of MPs who will "keep the bastards honest"? These non-politician politicians promise to serve as a counterweight to the dominance of the major parties, so that no government has a majority in the upper House but must negotiate legislation with so-called "honest brokers". The argument goes that Australian voters don't want government to be all-powerful—which, given party discipline in Australia, they generally are if a party controls both Houses—or voters are distrustful of absolute majorities, so they split their vote between the preferred party in the lower House and a safeguard vote for another party in the upper House. I think there is some merit to that.

However, the third and, I believe, most interesting reason is that of micro-party preference. A person may wish to send a message to the major parties that their specific policy interests are not being met by the major parties, and policy-motivated voters expect the minor party to push for a specific policy, irrespective of which government is in power. The most consistent example of this phenomenon is tactical voting in so-called progressive seats—support for Labor in the lower House combined with support for The Greens in the upper House. Again, the argument goes that voters might not want a Liberal Government, but they want action on issues such as climate change or minority rights, which voters do not feel mainstream Labor addresses sufficiently well. Similarly, conservative voters might not want a Labor Government but are unhappy with the modern Liberal Party's disdain for firearms, and instead vote for SFF, or the Liberal Party's support for immigration and foreign capital movements, and hence vote for One Nation or Clive Palmer.

Why don't the major parties have policy positions that can incorporate these minority interests? Harold Hotelling was a US statistician who wanted to explain the clustering phenomenon in businesses and why product convergence was preferred to product differentiation. His quote is great: "A business will move closer together to attract customers from their competitors. This results in a minimal level of product differentiation." But to explain that further, let's take a brief trip out to Bondi Beach. So we're out on Bondi Beach and two ice cream sellers decide to set up their stands. They're logical, and the people on Bondi Beach are all logical. They set up about one-third of the way in, each of the way. Customers, being rational actors, don't want to walk too far to get their ice cream. They want to walk the least distance, so they choose. Those at the southern end of the beach go to the southern stand, and those at the northern end of the beach go to the northern stand, and in the middle you have people who might not be sure which stand is closer, so there's a bit of competition there.

However, what the southern vendor noticed is that if they move a little further to the north, they can capture more of a guaranteed market and have less competition in there. Similarly, the northern vendor does the same. So what you have is Hotelling's principle in action. It's a logical and stable system. Indeed, it's the most logical and stable system—until someone else with an ice cream van suddenly works out that they can capture a minority of the market if they set up on the southern end of Bondi Beach as well, and another person decides that they want to set up on the northern end of Bondi Beach to capture that end of the market. The decision then for the two original vendors is whether to move southward or northward to reclaim some of their market.

Of course, those of you here will understand that I'm not talking about a beach but about parties' positioning within the political spectrum, where major parties hope to maximise voter attraction but which offers the opportunity for minor parties to capture other areas. In fact, this is relatively simplistic. If you look at the Australian political beach—most people here would be familiar with the Australian vote compass, where the Y axis is essentially the authoritarian and libertarian strain, and the X axis is socialism versus the free market—you can see how individual parties carve out for themselves a niche on the political beach of the Australian landscape. That being said, not all four of the quadrants have the same number of people. That is why Labor and Liberal position themselves in that particular area, because that's where the most are.

Nevertheless, carving out a niche for yourself as the Shooters, Fishers and Farmers Party, the Libertarians, Katter, The Nationals, One Nation, Animal Justice Party or The Greens is statistically advantageous for you. It's rational and statistically advantageous because you gain a share of the political market which is not and cannot be serviced by the major parties, because the major parties cannot afford to lose more voters than they gain. Thus, there is no reason to believe that the current trend for minor party success will change in the future. Minor parties are here to stay, whether the big parties like it or not.

But what does that mean for a Parliament which, in Australia, has been predicated on two-party majoritarianism for the past 115 years or so? What are the consequences for Parliament and the Executive of the rise of the crossbench? What does it mean for governing and lawmaking? We have all seen the standard model of Westminster-style government—Executive, Legislature, judiciary. Executive proposes laws, Parliament passes them, judiciary interprets them—yada, yada, yada. It is basic lawmaking. But have a look at the wording in the little box underneath Parliament in the slide. It states, "power to make and change law". Through all of this discussion there is one immutable point: Only Parliament can make and change laws and, quite simply, an idea only becomes law when the majority of politicians in the lower House and a majority of politicians in the upper House agree to it. Thus, getting the numbers is what politics is all about.

Strangely—and we do not talk about this much—the actual job of MPs is to show up in this building, Parliament House, and to vote for or against legislation. The number of people who are members of Parliament who actually do not want to be here might surprise you. They would much rather be in their electorates. They consider it is just a waste of time for them in the Parliament. They literally say, "It is a waste of my time to be here." As a former Whip, I got to see this on an all-too-regular basis. "I'd rather be out in the electorate handing out giant novelty cheques or going to the local rotary dinner," or something of that nature. To an extent, it is being the big man of the village. You get the accolades and adulation of being the local member of Parliament out in the electorate, whereas in here you are just another backbencher. There is more than a little bit of ego at stake here.

But being out in the electorate and handing over giant novelty cheques is not their job. The actual job of a politician and a member of Parliament, whether it be a four-year term or an eight year term, is to vote for or against legislation. No individual MP has a stronger vote than any other MP. They can all have their say and they can all exercise their power. And that, in the Legislative Council at least, results in a babel of voices, competing interests, varied policy demands, objections and amendments, deals and compromises, policy folder torn, bundled, spindled and mutilated—it sounds terrible. It is messy, and everyone wants to have their fingers in the policy pie. Someone once said that a camel is a horse designed by a committee, but can the same be said for intrusions by parliamentarians on policy?

I used to run regular information sessions with public servants, and their continual gripe to me was, "Why don't MPs just listen to the sound policy advice put to them by Ministers and their departments?" The simple fact is this: We elect 135 people to Parliament. We pay 135 people to be parliamentarians. If we just want to do what the Premier wants, then let's get rid of 134 of them. Seriously, if you do not think that parliamentarians showing up with their own self-interest or their electorate's interests does anything useful, then just ditch Parliament entirely. Have an electoral college which names the Premier and leave it at that. As long as we have a parliamentary system, the skill in getting the numbers in both Houses of Parliament for the passage, amendment and repeal of laws is actually the job of parliamentarians.

Despite the facts on the ground, public servants, political science theorists and Executive government all maintain a common assumption of policy creation within a strict two-party system—strict party discipline and government majorities in both Chambers. But that's just not the reality today. What we have is a permanent structural minority in upper Houses at both the State and Federal level because of voting systems and voter preferences. In New South Wales, no party has held a majority since 198, and in the Senate—federally—no party has held a majority since July 1981, except for a brief period of Howard interregnum from 2005 to 2008 that produced WorkChoices, which proved to be politically disastrous.

Upper House minority is not some weird new fashion; it is the primary parliamentary structure of the past 40 years. Yet it is still treated by policymakers as some sort of transitory aberration, and now lower House majority is treated as a new and surprising norm, although we often forget that this was the case in most colonial and early Australian Parliaments. There are recent examples of this: Gillard in 2010, Berejiklian in 2021 and Minns in 2023, today. All are double minority governments: minority control in the lower House and minority control in the upper House. The current polling for Federal Labor may see a return to lower House minority government there too.

Compounding this problem is that Parliament is generally resentful of the Executive, whom they see as aloof, uncaring, unaccountable and arrogant. The ministry is resentful and distrustful of the Parliament. They are caught between the necessity of Parliament for the passage of money bills and laws versus the hostile interactions and aggravations they face on a daily basis: question time, budget estimates, upper House inquiries, requests for documents, where non-government majorities can make life difficult—administratively difficult and politically difficult—for Ministers.

Part of the problem is the failure to recognise the power dynamics of the upper House in particular. What do you think of this statement? "Once a decision is made, the policy cycle moves to implementation. The machine

of government smoothly implements the wish of Cabinet." That's the official view of *The Australian Policy Handbook*, written by Althaus and others. It's as close to a bible of public policy as you'll find on government. Glyn Davis, one of the authors, is now the head of Prime Minister and Cabinet.

The traditional view of policy creation is based on a two-party model with ultra-strict party discipline. Althaus et al discuss the decision process in relation to Australian policy cycle, where they mention the crossbench—and they only mention it in terms of obstructionism of government policy, twice. They acknowledge Parliament exists, but the term "decision" almost exclusively refers to a Cabinet decision. Althaus's view is reflected in most media commentary and most of what passes for political science in Australia: Cabinet agrees to X, X passes through the rubber stamp of Parliament, and then APS implements X.

Crossbenchers have been, at least up until recently, ignored as ineffectual or seen as irritants to the process of good policymaking, or as unserious players in the bigger parliamentary system. But remember, this is only the Australian model; it's not the model of New Zealand or Canada or Westminster itself. We are not normal! We are an international aberration. In all these other jurisdictions, the role of ordinary MPs is, and is recognised as being, much more powerful. So, do crossbenchers matter? More controversially, should they matter? Does anyone recognise this person? Did he matter for policy creation and policy decisions? He made one of the most important speeches in the past 50 years in the Australian Parliament, yet nowhere can it be found online. What he said and did fundamentally and radically changed the Howard Government's GST proposal. Have a listen:

The Government's genuine attempt to compensate and to attempt to lock in that compensation is something to be commended, but it cannot be guaranteed. But one thing can be guaranteed, and that is that the goods and services tax, once enshrined in legislation, will never be removed. Decisions we make now on this issue are not for the next three years; we are making decisions here that will affect generations. And the question, Madam Acting Deputy President, that I have to ask myself is whether I am going to be a party to imposing an impersonal, indiscriminate tax on my children, my grandchildren and their children for generations to come. I cannot. Madam Chair, this has been a bitter decision for me to come to because I respect the Government and I respect the Prime Minister of Australia. One of the most difficult things that I had to do—and I wanted to face him as man-to-man, but he is on the work of government up in Brisbane—was to speak to him over the phone not so long ago, about an hour ago. And I can only apologise to those in the Government who have spent so much time—Minister Kemp, Brian Gibson, here, and others, Alan Ferguson and all of those other people that have done. I just apologise, but I have to live with my own decisions. I know my name will be mud, whichever way it goes, but it has been mud before today, and it will be mud again later on. So, I do apologise for the fact, but I did my best to see whether or not in the end I could support the measure.

That's Brian Harradine, as some of you would remember, an independent from Tasmania. He was the swing vote which would have got the original GST package over the line but he said no, and the Government had to go to the Australian Democrats instead with consequent changes to food, education, health and medical products. But, importantly, given the usual criticism of the crossbench as illegitimate or unserious, did he sound unserious? Was he frivolous? Was his decision arbitrary or vexatious? He was a classic negotiating crossbencher. He voted for the partial privatisation of Telstra and extracted massive concessions for his home State of Tasmania. Minority government means that policy is not delivered in political vacuum and it's a myth to believe that, once a policy is decided by Cabinet, you can just jump to implementation.

In New South Wales, the government of the day, when they want to pass a bill through the upper House, will need the support of the official Opposition or a section of the crossbench. Labor has 15 MLCs. They need to find six more to reach that magic number of 21 because, if you can't count to 21, you don't get your bill. It's as simple as that. Your policy might need to be amended or delayed or revised or compensated or sunsetted or changed in some other way. When this happens, there are the inevitable cries from government, the public service and the media that this is evidence of some form of dysfunction in politics: "Base politics gets in the way of good policy", "Illegitimate micro-parties with no mandate stopping the work of big parties that have a mandate", "Spoilers and blockers who won't let legislation through", "These people get 7 per cent of the vote and have 100 per cent of the power".

But is it true? I'm not saying, and you shouldn't think, that crossbench members are all-powerful—far from it. Government always has options. They can find another crossbench option, as Howard did with the GST. They can go with the official Opposition, which, strangely enough, happens for most bills in Parliament. They can pull the bill entirely and try to do it via regulations or they can pull the bill entirely and run a public political advocacy campaign. The crossbench are always vulnerable. They don't have full information about the government's other options and negotiating positions. Remember, a government doesn't need to get every member of the crossbench, just 50 per cent plus one of the Chamber. Push too hard as a crossbencher and government will look elsewhere.

The crossbench power is conditional upon the circumstance and transitory, short of a formal coalition, which is what The Nationals did with the Liberal Party and, up until recently, The Greens did in the ACT. The simple truth is this—and it's massively under-explored despite the acres and acres of newsprint which is devoted to our political process and the role of crossbenchers. The truth is that the crossbench matter in one circumstance only: whenever the government of the day and the Opposition of the day are implacably opposed and, in order to

get their numbers, the 21 they need, governments have to persuade people on the crossbench to vote for their bill. That's what our Constitution spelled out. It's not a bug; it's a feature. This is exactly what's expected from a normal Westminster democracy.

One of the major points I want to leave you with today is this: It's the major parties which make the crossbench powerful. My old mate John Ruddick, as one vote out of 42 in the Legislative Council, can achieve nothing. You don't get to be John Ruddick and walk into the Chamber one morning, slam the *Notice Paper* on the table and declare, "I have the balance of power so I want this, this and this." That's not how it works. But when the government needs that final vote to get the 21 they need to turn an idea into law, then if you're the last person and the Premier rings you up and says, "So, John, did you read in the newspaper that we're going to do X, Y, Z? I assume you'll be supporting it", someone like John Ruddick gets to say, "Oh, mate, maybe you should have called me first."

I want to go onto another thing and that's the mandate myth. This necessity to negotiate with minor parties greatly aggravates the major parties. Their view is "We shouldn't have to negotiate. You're tiny and we have a mandate from the voters." And some minor parties even buy into this argument. For example, Fred Nile and the CDP worked on the notion that, basically, "We'll back government legislation as long as it doesn't cut across our moral principles." But the idea that minor parties lack a mandate to block purported mandates of the government to do something is hypocritical if you look at voting numbers. Firstly, as I've noted, there is a clear and sustained pattern of tactical voting in Australia where you'll vote for a major party in the lower House and a different party in the upper House.

Secondly, even if we ignore this evidence of tactical voting, the simple fact is that few MPs in the lower House win their seats on first preference count alone. They do it after the distribution of preferences, so the majority of voters in their electorate wanted somebody else but ultimately chose them as the least worst option. In New South Wales in 2023, only 41 major party MLAs achieved a majority on first preference. Federally in 2022, only 15 major party MHRs out of 151 achieved a majority on first preference, so it's hardly a resounding endorsement of their own purported mandate. Thus, major party criticisms of minors fail on their own logic of electoral legitimacy. I would encourage lower House MPs to take a reality check. If you think you have a mandate, add up everyone who didn't vote for you as their first preference.

Can an Executive negotiate with a crossbench successfully? Yes, they can. You just have to be willing to deal. Meg Lees and the Democrats agreed to the passage of GST but with substantial amendments. The Shooters did a deal to support the reforms of the early O'Farrell Government in return for hunting in national parks. It was pure horsetrading on key issues of importance to both parties. When O'Farrell couldn't get bipartisan agreement with Labor on electoral funding reform, he went to The Greens in 2012. The 1991 lower House and the 2010 Federal Independent list of demands were, again, essentially horsetrading. What everyone forgets is that amongst claims of turmoil in both the Gillard and Greiner governments, they both had very substantive policy platforms passed during that period of time of minority government. Terms like horsetrading, logrolling, backroom deals and quid quo pros all have pejorative overtones, but this is a fact of life. You need 50 per cent plus one to get a bill passed.

But some people don't get it. There are plenty of good examples, and there are also a few bad examples, of how not to negotiate. As a case study, I'll have a look the Liberals negotiating with the SFF Party in New South Wales. Barry O'Farrell was originally presented with a list of things the SFF wanted and agreed to horsetrade on policies, but then later reneged on the deals. But, by then, he'd got what he wanted. Gladys was presented with a list of things that the SFF wanted, took one look, turned on her heels and said, "Nope", and walked out of the meeting. Dominic was presented with a list of things the SFF wanted, commenced negotiations but was utterly unserious in actually delivering anything. He was just stringing them along. The point here is that the minor party were the good-faith actors and the Government were the bad-faith actors in each of these dealings.

So what do they do? What's the possibility of having minor party or crossbench involvement? Part of the mindset is that nobody in government ever bothers to ask, "What might crossbenchers bring to the policy table?" Will they bring different perspectives, different ideologies and different interest groups, or questions which come from a different bounded reality. Is this the real issue here? What's the best solution? Did you consult with all the people who matter? These interventions don't necessarily guarantee better policy outcomes, but you cannot assume that they will not take place. That would be crazy.

One final thing I want to talk about is ministerial subterfuge. Ministers understand the role that can be played by crossbenchers for their own tactical policy purposes. Let's say you're faced with internal opposition to a particular policy proposal. You want to get key parts of your bill through but they didn't make it through the party room or the Cabinet or The Nationals have revolted and said you can't do it. Cabinet Ministers are constrained by Cabinet solidarity and party members are constrained by the party room but you want to put these

ideas back into the bill somehow, so it's not unknown for Ministers to engage in a bit of subterfuge so they can get their preferred outcomes by other means.

Use crossbenchers to achieve your policy goals. How does it work? It's not uncommon for Ministers and/or their senior staff to visit the crossbench, usually late at night in the crossbencher's office, where there are fewer prying eyes, and start with something like, "Just between you and us, here's a bill that you haven't seen yet. We're going to introduce it next week and you're going to hate it. But a clever person like you might come up with amendments which look like this, or this, or this. Think about it." I'm not kidding; it's smart business. It's a Minister agreeing that you're starting with a negotiated outcome. The Punch and Judy show of usual politics will say, "No, no, we're not changing this best of all possible bills in this best of all possible worlds, and Anthony says we're never supporting that horrible bill. But, in the end, it's going to be a negotiated outcome through a line of communication which we both foster."

More worrying is that there is this modern phenomenon, in double minority governments, of getting a bill you didn't want. In the dynamics of a changed Parliament, through the growth of the crossbench, it has major implications for final policy outcomes. Any amendment to a greater or lesser degree affects the public servants who must implement the policy. Even more problematic is the question of who is responsible for the implementation of unexpected legislation. This is not a theoretical exercise. The loss of majority in both Houses makes this a very real possibility.

The New South Wales Government had 18 months of being, effectively, out of control of the legislative agenda in the Parliament. The current New South Wales Government does not have a majority in either House, either. The Opposition and the crossbench could combine to see bills passed, but what happens if non-government parties in the lower House, where there is a majority if you add them all together, pass a bill which then goes to the upper House, which also has a non-government majority, and it gets passed there unamended? What happens is that the Governor is compelled to sign the bill into law. There is no discretion not to sign. Chris Minns cannot call up the Governor and say, "Do not sign this bill." It has passed through both Houses of Parliament and the Governor has to sign it, which then leads to the problem that now you have a law, but it is a law that does not have the support of Government.

Who is responsible for making it work? Is it a Minister, a departmental secretary, the public-facing public service workers? What is the response to unworkable but legislated policy? Is it acceptable now for public servants to go outside the bounds of tradition and criticise parliamentary decisions, if they are faced with legislation which is unworkable? This is the whole stewardship argument which is going on in the public service across Australia at the moment. Ladies and gentlemen, welcome to the exciting and dangerous world of active crossbenchers and entrenched minority government.

The Hon. SARAH MITCHELL: Thank you, Peter, and thank you, Antony, for those very insightful presentations. Phelps, I do not think I will be the only person in this room who, from now on, will always think of you when I get an ice cream at the beach, so thank you for that. We now have an opportunity to take some questions from the audience. I think we have about 15 minutes. There will also be a chance for anyone watching online who would like to submit any questions through the live stream. If you have a question, raise your hand. There are two roving microphones. We will do our best to get to as many as we can in the time we have. I am sure there will be a lot of questions. Are there any volunteers? We will start down the front.

Professor FRANK BONGIORNO: My question is for Peter Phelps. There was once a simple answer to the question you posed at the end: The Government should resign. I do not fully understand all this stuff, so I am wondering about the institution of fixed terms and set days for elections, and so on. Is that consistent with the shift towards minority government that you have described?

Dr PETER PHELPS: Not in New South Wales. You could face a potential situation where hostile non-government parties in both Houses pass legislation but refuse to pass a no-confidence motion, or refuse to block supply. That is the trigger which gets out of the four-year fixed terms. You could have robotised government.

Professor FRANK BONGIORNO: In that situation, a Premier should be able to go out to Government House and resign and potentially call an election, or ask for another government to be commissioned.

Mr ANTONY GREEN: I think we have seen, sort of, this position in the last years of the Napthine Government in Victoria—the one member who held the balance of power left the Liberal Party and, day after day, voted with the Opposition, which allowed the Opposition to take control of the notice paper. That would normally be grounds for requesting an early election, but there were no grounds. You had to move the vote of no confidence and the Opposition would not move one, so the whole thing went to states of numbers. The one out on what Peter is talking about is if there is a policy that involved funding. That's got to be moved by the lower House. There is

a whole bunch of difficulties there about whether you can pass a bill that involves appropriations of moneys. Anyway, there are a few constitutional issues there.

Dr PETER PHELPS: You couldn't introduce a bill that had an appropriation as part of it because that's reserved for the Executive. You can't bring it in the upper House because of the general rule that you can't have money bills introduced in the upper House. But there is nothing to stop a law being enacted where the Government is then faced with a situation of having to redirect resources for its enforcement or ignore its enforcement, neither of which are in any way, shape or form responsible government.

Mr ANTONY GREEN: We have seen a couple of native wildlife and national parks types of issues where this has happened and the Government has just adjusted its expenditure without any difficulty, but yes.

AUDIENCE MEMBER: Thank you so much again. I came here for the tablecloth and stayed for this brilliant session. Thank you very much for that. I was thinking that a few weeks ago I was at Central Station and, randomly, *The Daily Telegraph* asked to interview me on the spot. They went on about whether the Government or the crossbench is more effective and stuff like that. I was not in a position to say anything about that at the time. I was just thinking, with the crossbench becoming more prevalent in both State and Federal politics, with the future of the crossbench, could we start seeing, like in Europe or other places, larger coalition governments or the crossbench becoming stronger, or could it divert somewhere else, down a different path?

Mr ANTONY GREEN: We could. I think one of the problems in Australia is that this hasn't coalesced into a rearrangement of the party system. The Coalition and Labor are still the two big beasts, and on the edges you've got alternatives. In the lower House, we are seeing Independents elected. One thing that struck me while I was listening to Peter talk about the upper House was that one interesting thing is to look at is the current Senate. To some extent, oppositions have made life difficult for governments by giving more and more power to the crossbench to have endless debates. The Senate is a good example. You turn on the Senate to hear some serious business going on and they are debating some motion. Governments really don't have a lot of time to get bills through the Senate these days because of the way it's structured. Although, as we saw on the last day of Parliament, sometimes the Opposition says, "All right, we better get all of these bills through at once," because the political pressure has been put on the Government.

What we have seen with negotiation in this most recent term of the Senate is that The Greens, for instance, have been demanding that certain actions be taken that have nothing to do with the bill. For instance, for funding for certain types of housing, The Greens won't agree unless they change the capital gains tax, which is a completely different issue. You can't just tag it onto that bill. What they are demanding is a complete change to Government policy and a reversal of the stand it had at the last election as a negotiating position. It's very interesting that as this year has gone by, a lot of those things have dropped off as The Greens realised they just weren't getting anywhere with it. There is a degree to which the crossbench can debate issues, but it's also not the tail wagging the dog and demanding that policies be implemented in that way. Peter probably has a view on that.

Dr PETER PHELPS: No, I think that's all true.

AUDIENCE MEMBER: I have a question for Dr Phelps. You mentioned the possible revolt of the public service in your talk. That is not really likely since Greiner politicised the public service by removing policy units from the public service. He took away their policy development role in respect of social policies and placed the personnel in the office of the Minister, where those positions are now largely filled by politically motivated candidates who want to join the political system. What I am saying is that as a former public servant and a former member of the education policy unit, we used to make policy based on free and fearless advice from within the public service and the experience of people working at the coal face in service delivery, according to Mintzberg's theory. Now we do an annual code of conduct training to teach us that we must not disagree with the Minister of the day, under threat of being sacked from the public service. I wanted to ask you about the politicisation of that role.

Dr PETER PHELPS: My comment about the potential revolt of public servants is that there is a traditional standard which we use at estimates, and that is that the arguments with the public servants are about process and you have the arguments with the Minister about policy. My argument here is that, if you faced a situation where the public service is forced to implement a proposal which comes through double minority government—both Houses; they have to implement it—is it then available for them to in fact back the Government and say, "This is an unenforceable policy; this is a ridiculous policy"

That goes against the traditional public service mantra of being apolitical, of not discussing policy about Parliament, and there is a big issue of what does stewardship in the public service mean. Does it mean just sitting by while you're forced to implement something which you don't believe you should be doing? Again, I don't know the answer because it would be a big move by any level of public servant, even a departmental secretary, to say,

"This legislation is crap; we can't implement it; it's got through Parliament", and say that to a budget estimates hearing. That would be pretty out there, but it might be necessary in the situation where they are forced to implement something which they have neither the desire nor the resources to actually implement.

AUDIENCE MEMBER: Peter Phelps, you referred to the two-party system a couple of times and gave a list of reasons why more people were voting for other parties. I suspect one of the reasons—referring to crossbenches is one way of doing it—is actually a desire to have a multi-party system. In Europe there are lots of examples of that where they have to form coalitions and it is a multi-party system. We obviously historically come out of a two-party system, but I think the New South Wales electoral system does not stop the development of a multi-party system. My question for both of you is this. I have never cast a valid vote in the Federal lower House election because I refuse to be forced to vote for the two major parties and basically, by requiring you to tick all the boxes in a preferential vote for the lower House, they are seeking to enforce the two-party system. Do you agree that that is a bad political system?

Mr ANTONY GREEN: Your question is basically saying the only proper system is proportional representation.

AUDIENCE MEMBER: No, the optional preferential system is fine.

Mr ANTONY GREEN: But there is a lot of confusion that people throw around about two-party systems. America has a two-party system. In America, their electoral system has two parties structured into it. In this country it is not. We have a system where, over time, the two parties have dominated and taken most votes, and over time it is decreasing. People say to me that, with preferential voting, all votes end up with the major parties. Of course, we have more members in the crossbench now than we've ever had. In the end you don't have to vote for the two major parties.

I would agree with you on optional preferential voting. I'd be surprised as well. At various times both sides of politics have supported optional preferential voting. Usually when the other side supports it, the other side opposes that change to the policy because it fits in. I actually tend to agree with optional preferential voting partly. What is Colin Hughes' phrase? It's like herding cats. Why do we have to herd people to express a preference for everyone? They have turned up. They have voted for the candidates they wanted to vote for. Why do they have to express a preference for everyone else? That is my view on that. If it cuts the proportion of exhausted votes, all the better. I would always support people who support optional preferential voting, for the reason that it always helps the biggest party as well.

Dr PETER PHELPS: Because it effectively becomes de facto first past the post.

Mr ANTONY GREEN: In the Campbell Newman Government, nine seats changed on preferences, and that was optional preferential voting. They have suddenly changed to supporting—

Dr PETER PHELPS: Campbell Newman is not really an example.

Mr ANTONY GREEN: That is possibly the case.

AUDIENCE MEMBER: Just looking forward, we have seen growth of the crossbench. I am interested from the perspective of the further growth of that in the short to medium term. Are the barriers to entry currently appropriate? And are the mechanisms to support these smaller parties sufficient at the moment given that, from the perspective of the major parties, it is a little bit of a "love and hate" thing?

Dr PETER PHELPS: I don't think there's any love at all for minor parties from the major parties.

Mr ANTONY GREEN: I think the issue is actually the decline in support for the major parties. Compulsory voting has probably buttressed the major parties over time—but, over time, it is declining. There are people who no longer support either of the major parties. The old theory about political party structures is that you have cleavages in society. We, like most Anglo-Saxon countries, tend to have a cleavage which is labour versus capital. Nowadays, that is more of an inherited memory of people voting one or two generations in the past, but that tends to be the cleavage. If you go to a lot of European countries, you don't have a labour versus capital cleavage; you have a church versus state cleavage. You have Protestant versus Catholic and city versus country. If you read Don Aitkin's early work in about 1970, he said there are three cleavages in Australian society: class, city versus country and Catholic versus Protestant. The third one has disappeared and I think class has diminished. City versus country, I think, is actually getting bigger than it used to be. Those cleavages change over time but, certainly, we don't have the multi-cleavages that you see in European nations.

The interesting thing for us, and Britain, is that we are continuing with a single-member electoral system, which tends to push into a two-party system, but our two-party system is declining. New Zealand, which went to proportional representation, is going back to a dominant two-party system. Over there, it is very hard to get a

majority. Here, you still tend to get a majority, but in four of the past five Federal elections the winning parties got 77 or fewer seats. I don't expect we are going to see many more landslides in the future. We are going to see a lot of these hung parliaments because the major party vote has declined. And it is not the national vote that matters. The lower the major party vote, the more seats that do not end up as two-party contests. Twenty-seven of 151, last time, were not two-party contests. When I did my first election, there was one, in 1990. That number is increasing, and that is forcing change on the House of Representatives.

Dr PETER PHELPS: Just getting back to your question about "Will more arise?", more will arise if they can carve out a niche on the political beach. There is enough in terms of administrative funding—for election day funding on a per-vote basis—for parties to be largely self-sustaining, as long as they are not particularly extravagant. The question is can you plant your umbrella on the beach somewhere and get enough people to buy your ice cream? If you can, that is a statistically advantageous position for you to be in. You will never be a major party, but you will lock in that vote because you offer them something that the major parties, as I said, do not and cannot offer them.

Mr ANTONY GREEN: The other thing that I would add to that about small parties—the problem with small parties is when they get bigger and, suddenly, they actually have to have a broader agenda. I think you tend to see that with The Greens.

Dr PETER PHELPS: Pauline Hanson's One Nation is a classic example.

Mr ANTONY GREEN: They have that other problem.

Dr PETER PHELPS: Grow, crash. Grow, crash. Leave the party; come in.

Mr ANTONY GREEN: I remember someone saying to me, "I vote The Greens because they have this policy that I really agree with." The Greens have factions; they're just not as obvious to everyone outside as the major political parties. Those factions are reflections of the divisions on policy and also personality within parties.

The Hon. SARAH MITCHELL: We will have to wrap it up there. I am getting the nod from Jenelle. You have to listen to Jenelle when you are a member of Parliament; she is the Usher of the Black Rod. Thank you both. That was really insightful and fascinating, and I am sure everyone will agree that we have learned a lot from having you two gentlemen join us this afternoon.

Ms JENELLE MOORE: Thanks, Sarah. I promised you a fantastic session this afternoon and, I think you will agree, we haven't lied. To take us home to the end of our final session, I welcome David Blunt back to the stage to lead our members' panel.

COMPASS POINT: THE LEGISLATIVE COUNCIL TODAY

The Hon. MICK VEITCH, Former member of the Legislative Council

The Hon. SARAH MITCHELL, Member of the Legislative Council

The Hon. MARK LATHAM, Member of the Legislative Council

The Hon. SUSAN CARTER, Member of the Legislative Council

Mr DAVID BLUNT: We have had a late change to our line-up this afternoon: Ms Cate Faehrmann has had to send her sincere apologies, so we'll be missing Cate. In her place, thank you so much, we have the Hon. Susan Carter. You've heard from Susan this morning as she chaired the panel discussion on constitutional law. Susan, you are an absolute champion for stepping into the breach at the last minute this afternoon. We do understand you need to get away at 4.40, so we will excuse you to slip off at that time. Can I just emphasise to members of the audience and those joining us online that, notwithstanding Cate Faehrmann's apology today, we have ensured throughout the bicentenary program that our panels of members have represented the entirety of the political spectrum across the course of the last year, including both the major parties, the so-called conservative crossbench and the so-called progressive crossbench.

I have a number of, I guess, questions on notice—Dorothy Dix questions—to ask the members of the panel, but we will also ensure that there are opportunities for questions from the floor. I'm anticipating some interaction between the members of the panel. One final note of housekeeping is really a message both to the audience and also to the members. Although we're here in Parliament House, this is not a proceeding of Parliament, so the protection of parliamentary privilege does not apply as you ask your questions or you provide your comments. Can I begin by inviting each of our panel members—perhaps starting with Mr Veitch—to introduce yourselves, and tell us a little bit about your story and how it was that you came to be a member of the Legislative Council.

The Hon. MICK VEITCH: Thank you, David. Welcome to all and to my fellow panel members. It's good to see you all again. My journey to the New South Wales upper House was a bit different. I came through the Labor Party. I was a former shearer and foster parent and worked in the disability sector for a number of years. I had been told on a couple of occasions that I wouldn't make Parliament within the party, that I wouldn't get to the upper House. The day that I got to walk into the Chamber and take my seat before signing in, I had a good look around and thought to myself, "I used to work in a tin shed. I'm back in a tin shed, just slightly more salubrious."

I mean, people can romanticise these things, but for someone who had been told they weren't going to get there who was there, I wasn't going to waste my time. I was going to do what I could within the party's structures and then also within the standing orders and arrangements of the upper House. I don't know. I may have pushed back occasionally, David, on some of those structures and processes. In the end, I decided that the best way to do that is to try to work with some others across the Chamber and achieve things. My early reflections are it was a place where I could represent and speak for those who weren't there or couldn't get there, whether they be shearers from the other side of Bourke or people living with a disability in their life. I tried to shape as much of my time in the House through that context.

Mr DAVID BLUNT: Thank you very much. Sarah Mitchell?

The Hon. SARAH MITCHELL: Thanks, David. I was elected in 2011. I'm a member of The Nationals. I live in Gunnedah, up near Tamworth, and came down from the regions to be here in Parliament. I got in on the very big landslide election in 2011, and I was number 11 on the upper House ticket for the Liberals and Nationals, which has never been elected before. So I really probably shouldn't be here, but 13 years later, I'm still here. I've been re-elected again, so it's okay. For me, it was a really interesting period of time. I was 28 when I got elected for The Nationals, and a woman, which was a little bit different in and of itself, to be frank. It was a good opportunity for me to bring that perspective of being someone a little bit younger and at that stage in my life. My husband and I got married two weeks after the election, so literally within a four-week period we got married, we moved house and I became an MP. We're still married, so, again, that bodes well.

But it was a process for me. I'd been a political staffer—not ever in Canberra, not ever ministerial. My first boss was John Anderson. I worked for him out of Gunnedah. A bit like Mick, I love living in the country, and I wanted to make life better for people who lived in my community. At that time, we'd had many, many years of a Labor Government, and it felt like a lot of the State services we weren't getting our fair share of in the bush,

and so I wanted to be a part of making my community a place that I wanted to live in and hopefully one day raise a family in, and that was sort of my genesis for putting my hand up.

I remember when I got in here, I was quite overwhelmed at the beginning. It was a chance that I would get elected, but that day they pushed the button and it was myself, Jeremy Buckingham and Pauline Hanson were the last three, for the two spots that were there, and I managed to get the last spot. So it took me a little while when I first came in to really get my head around the fact that I was an MP, that I had a job to do. When I think back to 2011, the first probably six months or so, I think my head was spinning a lot until I kind of worked out what my role was and got my feet under the desk and got cracking.

Mr DAVID BLUNT: Thank you. Susan Carter?

The Hon. SUSAN CARTER: Thank you, David. I am very new; this is my first term. I was elected in March 2023. I had long been interested in politics because of policy, and I think, like Sarah, I want to make sure that the society I live in is a good society in which everybody can thrive. I suppose, through the lens of being a parent, you want to build a society in which your children can thrive. I had worked for a number of years in the law and in legal education in universities. I'm in the Liberal Party. I'd been actively involved in the Liberal Party. I'd offered myself for preselection and the preselectors had decided that they weren't interested. I thought, "There's plenty of different ways that you can serve." Then I had the opportunity for the March 2023 election, and it's an extraordinary privilege to find myself here and find myself, hopefully, being able to contribute to making New South Wales a really good place for everybody to live.

Mr DAVID BLUNT: Thank you. Mark Latham?

The Hon. MARK LATHAM: Thanks, David. I had local government and Federal parliamentary experience beforehand, and after I left the Federal Parliament in 2005, one of the best experiences of my life was being the home parent, predominantly, raising the three kids. But as they grew up and it got to the point where I was losing too many political arguments at home, I thought I needed to go to a place where I can win some, maybe. I had a few options to get onto the crossbench of the upper House and took them up, which I've enjoyed, because, unlike a major party, where you're the spokesperson on Treasury or Education, you can actually roam across the issues that you think are relevant, pick them out and hopefully make a difference, either in a negative or a constructive sense, according to the work of the crossbench.

Obviously, I was a longstanding member of the Labor Party but, primarily over identity politics instead of the focus on socio-economic issues that I grew up with in Liverpool and Green Valley, I grew disillusioned with that. The crossbench is sort of a movable feast—a bit of a circus, at times—and you can pick out your political configuration and issues as you see fit. Generally, I suppose my attitude to politics and, probably, my public life has been that I've always lived in south-west Sydney and have had a habit of moving from Liverpool to Campbelltown and out beyond Camden. As the urban fringe has moved out, I've wanted to stay on the edge and right on the fringe. That's a descriptor of my political existence as well that, one way or another, I'm comfortable with. I've always liked it that way. I've never wanted to be part of the establishment, and I suppose I'm living proof that will never happen.

Mr DAVID BLUNT: Thanks for those introductions. What was it like when you first arrived? Mick Veitch, you arrived in 2007.

The Hon. MICK VEITCH: Yes. As a former member of the Labor Party, Mark will appreciate that the Labor caucus has a mystique about it. People talk about what the party room is like. In 2007, it would be fair to say that my first party room meeting was a room of people that thought they were going to lose the election but actually won, with that great political slogan of all time, "We're heading in the right direction, but there's more to do." People in the audience laugh, but it won us the election! I walked into a room where there was that sort of vibe. From there, going into the MLC caucus—so you have a chat with your people in the upper House and they sort of guide you through what's going to happen when you walk into the Chamber and where you're going to sit—to then walking into the Chamber, that whole morning is a blur.

But the political context for me was it was the Labor Party winning an election that they didn't think they were going to win—and, many would say, probably shouldn't have won. The characters were there in that caucus at that time. It was exciting. I wouldn't say it was scary, but some of the characters could be, if you wanted them to be. It was just a mix of emotions on the day, David. Then going into the Chamber and that whole—if anyone has never seen the opening of the Parliament or the Chamber on the first day, you should really take that in. There's a bit of theatre around all of that. That whole process was quite exciting.

Mr DAVID BLUNT: Sarah Mitchell, you've hinted at this a little. What was it like for you in 2011?

The Hon. SARAH MITCHELL: I suppose, from the Coalition side, we were almost the beneficiaries of you guys winning the election you maybe should have lost, because we won in a big way in 2011. I remember coming into that first party room. The Nats, we'd won nearly every regional seat. The Liberal Party, I'm sure they won't mind me saying, had won seats that I don't think they ever thought that they would win, either, and maybe only kept for that term between 2011 and 2015. But there were big numbers of Coalition members. I think we only needed two votes to get through legislation in the upper House from 2011; at the moment I think we're looking at seven votes to get anything through. Back then it was really about negotiating, mainly with the Christian Democratic Party. I was a backbencher then so I didn't do any of that sort of stuff, but Parliament definitely was an easier time for the government of the day because the numbers were there. As Peter said, it's all about the numbers, especially when you can have that work to your favour in both Houses.

One thing I would say—and it's probably just a reflection on looking at the new Labor Government coming in now—is that we'd had 16 years in opposition and a lot of the shadow Ministers who became Ministers had had those portfolios for a while. A lot of work was done. There was a 100-day plan. There was a very strong legislative agenda. We were sitting four days a week, and quite a lot of sitting weeks, which I think Mick probably saw from opposition. But there was a plan and it was ready to go. I think that the work had been done in opposition to implement, particularly in that first term of government when the numbers were so strong. I do not want to be super political, but I do see with the current Government that they had 12 years of opposition and then they were in, but I would argue that their legislative agenda hasn't been as strong or as previously worked on, I wouldn't say, compared with the time that we came in. It has been interesting to watch that change of both from opposition to government, and to see what a new government does after their predecessors had so long in power. It was an interesting time.

Mr DAVID BLUNT: Mark Latham, you were elected to the Legislative Council in 2019. In some ways, it was a little bit of a similar time in the electoral cycle to what Mick Veitch just described.

The Hon. MARK LATHAM: I suppose so. My first impressions were that nothing could ever be as bad as the 2004 Federal election, which I lost as Leader of the Opposition. I remember Niall Blair on the address in reply. I think he had four instalments of a speech. It got down to what his kids thought about it and what his dog thought about it, and the horror of being demonised on the ABC news because some fish washed up on Menindee Lake when he was the water Minister. It was a real heart-wrenching sob story. I remember turning to Rod Roberts and saying, "He ought to try losing a national election and see what it's like." All things are relative, aren't they, in life and politics?

I suppose in the upper House there is that opportunity to pick your issues on the crossbench. You can't do everything. Probably the big change I've noticed, following Sarah's remarks, is the paucity of the Labor Government agenda. It's really a parallel universe now where, on Government business days, we'll go home at 6.00 p.m. It seemed to be a lot more active even in the last days of the former Government. After 12 years, in their last year they seemed to have a bigger, more active, controversial legislative agenda than Labor coming into office in their first year. I know politics has narrowed, and agendas aren't as reformist as they used to be. But you look at the new Government and the role of the Legislative Council has changed, because the review of legislation is a lot narrower. One big issue the Government currently has is public sector wage increases without productivity trade-offs. That's not something we're going to be involved in all that much. The other one is housing supply. It is quite a surprising issue for a Labor government in a city like Sydney to fill the coffers of the land development and housing industry. But that's where they've headed and that's their really big thing. Obviously, I've been quite involved with the Rosehill controversy, which seems to have spurred that agenda. There were a lot of things to say about that.

I think it's a matter of recognising that legislative scrutiny is not what it used to be in the upper House at the moment. With the declining capacity of the commercial media to run scrutiny and integrity issues, there's probably a bigger role there, and the crossbench plays that. There are our powers of Standing Order 52 calls for papers and budget estimates, which is unusual from Canberra. In Canberra, Paul Keating would have been horrified at the idea of lower House Ministers having to appear at upper House budget estimates—unrepresentative swill. He would have said that it's a complete, absolute privilege that we'd ever do that. But it's a feature here. Budget estimates are important, as is question time, to a lesser extent, and questions on notice. There are some forums and, if you use them skilfully, you can make a difference in the upper House. I suppose the best example of that currently is my colleague Rod Roberts, who is the de facto shadow Minister for police. He seems to know more about what is happening in the Police Force than the Minister and has a good feed of information, through which he has raised a whole bunch of issues—integrity and scrutiny—that point to that growing role on the crossbench.

Mr DAVID BLUNT: I am conscious that we don't have a member of the current Government here so, Mick Veitch, it's going to fall to you to defend. All joking aside, Susan Carter, you arrived just last year. What was it like for you?

The Hon. SUSAN CARTER: I think, overwhelming. Interestingly, as a lecturer, I had taught New South Wales Parliament, so you think, "Well, I have some understanding of what it is that I'm walking into." But the theory is always very different to the practice. Every day I walk into the Chamber, I feel this tremendous sense of privilege and almost that imposter syndrome of "Why am I here? If I'm here I must make sure that I repay the trust that has been placed in me to do the best job that I possibly can."

I think the other thing that has really struck me, David, is that you focus on the work being in the Chamber but, as Mark has indicated, a lot of the really important work in the upper House happens outside the Chamber. It happens in the committee system and the estimates process. It is extraordinary, the amount of scrutiny that you are able to apply in the estimates process, to pick up the theme of the day. Also, what has surprised me the most, I think, that has come out through the estimates process is perhaps the difficulty that the Government has had to transition into the fact that as well as passing laws they have to manage the implementation of those laws. There is often seen to be, through that process, a really lean understanding of what an implementation process looks like, so that laws aren't just passed but they actually happen for the benefit of the people.

Mr DAVID BLUNT: Mark Latham has talked about the role of the crossbench and the important role that the crossbench plays. I'm conscious that each of you have fulfilled a variety of roles in your time in Parliament, particularly those who have been in the Legislative Council for some time. Sarah Mitchell, can you talk us through what it's like to be a leader of a major political party and to be a senior Minister in government? What's that experience like?

The Hon. SARAH MITCHELL: First, I'd say that it's an incredible privilege, and I think anyone who gets to serve as a Minister would agree. You have very challenging times, but then you can do something that might seem simple that's really rewarding. I didn't expect to be education Minister when we had two years of a global pandemic. That wasn't actually on my to-do list. But you learn a lot about how you can work with teams and develop a skill set, which is quite unique. There's no job quite like what we do, and then when you get the opportunity to be a Minister, I do think it adds another layer of complexity but also privilege to it.

I think, too, it's interesting that people ask how the process goes and do you get to pick and do you get to say what you want, and the short answer is not really. When I first became a Minister, I was Minister for Early Childhood and for Aboriginal Affairs, and I had just had my first daughter. I've had two girls since being an MP, and I was on my local early childhood day care committee, and I was really interested in that in a policy space, so that was a natural fit for me to do something there. I did have to go off the committee. The director was really happy I got promoted but didn't like the fact they'd have to find another mum to say yes to go on the committee. That was sort of how that started, and then I ended up doing some assistant education work with Rob Stokes and then was moved up into the Education portfolio.

But you literally get a phone call, in my case, from the Leader of The Nationals saying, "We would like you to be in the ministry, and this is the role that we'd like you to take on." I think that you have to be quite adaptable. Reshuffles can happen; policy changes can come to you. There can be a media story in a portfolio like Education and your whole day's direction can pivot literally from 6.30 in the morning of what you thought you were going to do to what you end up doing because of what might happen outside of your control.

In a parliamentary sense, obviously when you're a leader you have responsibility, and a Minister, putting legislation through the House, negotiating on any bills that you might have, also dealing with private members' day, which is also a really big thing in the upper House. We have a full day where members will be doing calls for papers, passing motions, wanting to raise issues in their portfolios and then also question time. There's preparation you need to do. You need to be thinking about what you might get asked about that day. It's an amazing job, but it's a lot of work and it's very high stakes and can be high pressure at times too, but something that I will always be grateful that I had the opportunity to do, because I know a lot of great people who serve in Parliament who never get that chance, and sometimes it's just the way that the cards fall whether you get the phone call or not.

Mr DAVID BLUNT: Mick Veitch, you were on the other side of the table as the shadow Minister while Sarah Mitchell was a Minister, and of course, Susan Carter, you're a new shadow Minister. Sarah Mitchell, you're a shadow Minister again. Tell us about being a shadow Minister.

The Hon. MICK VEITCH: I'm one of those ones that didn't get the chance.

The Hon. SARAH MITCHELL: You're the greatest ag Minister that never was, I tell you. It's true. I mean that.

The Hon. MICK VEITCH: For those who were here for Dr Phelps's contribution earlier, he spoke about politics being about the numbers. I didn't have the numbers, literally. Twelve years on the frontbench and was appointed shadow Minister in 2011 after the shellacking that we took, quite rightly, four years after we probably shouldn't have won. I can remember John Robertson ringing me and saying, "You're going to finish up on the frontbench." I didn't really have a lot of idea around what a shadow Minister should do or go about their work, particularly a regional shadow Minister.

I should put that into a little bit of context for those who aren't aware of just how big the shellacking was. For two years I was the only member of the Labor Party living west of the Dividing Range, at a State and Federal level, in New South Wales, Victoria and Queensland. Just put that in context. Not only did I have to be a shadow Minister and undertake the duties with a large range of portfolios, learn them and get my head around them with one staff member, but I also had to service the party, which meant I was doing a phenomenal amount of travelling, to all parts of the eastern seaboard, essentially. I spent 12 years as a frontbencher. I missed out in 2023. I was the one shadow Minister who didn't get elected in 2023. So, all the people around the table, congratulations! But I missed out.

I don't think I found my feet as a shadow Minister until about 2015, David. I was up against Niall Blair. We developed a process, Niall and I, where we had some really good, feisty debates, and Peter spoke about the capacity. A part of being a parliamentarian as opposed to a politician, really, is being able to walk into a room, close the door and have a conversation with your opponent about "Look, this is a good piece of legislation but you've got some elements here that we're going to find egregious in the party room. We need to sort that out. Can we come to some sort of an agreement about that?" Then working through what that would like and then, by the time it hits the Parliament, you can actually have a very constructive debate around getting the legislation up rather than just saying no or knocking over something that in the longer term has the potential to be quite important for the people of New South Wales.

It was then that I realised things like the Standing Order 52 call for papers—there weren't many in the 2015 period, by the way. Questions on notice, I do remember dropping 330 questions on notice on one day. I do apologise to the staff. They're still nodding—post-traumatic stress. And Susan, I'm glad you really like the budget estimates process, because it wasn't like that in 2015. It wasn't like that at all. Dr Phelps and I lobbied very hard for an extensive period of time to change it. But essentially the Ministers would turn up for about 40 minutes, you would have the public servants for about 40 minutes and then you'd move on to the next Minister. That was it, which wasn't really conducive.

The model you have now evolved out of what was colloquially referred to as the "Committee into Committees". It was a very parliamentary thing, by the way—very Legislative Council. It created a tool for the Opposition, particularly, and crossbench members, much better than what was available. So my time as a shadow Minister in that 12 years, not only did I evolve and mature and, I guess, sophisticate my processes, but I realised the Parliament had to do the same. So I actively engaged myself by reaching across the Chamber to people like Dr Phelps, David Shoebridge or Robert Borsak to have conversations about what can we do to improve the house of review so it better serves the people of New South Wales? That's where I did a body of my work.

Mr DAVID BLUNT: Thank you. If I can take you all down that track of talking about committee work for a little while, Mark Latham, in the last term of Parliament you were chair of Portfolio Committee No. 3, which was dealing with Education at the same time as Sarah Mitchell was the education Minister. Can you tell us a little bit about the work of your committee, how effective it was, what you were able to achieve? And then, Sarah Mitchell, what was it like being on the other side of that equation?

The Hon. MARK LATHAM: Hopefully we gave her a very torrid time. Of course, like all Ministers, she didn't listen enough to the committee's findings and recommendations. That goes without saying. But the first thing that surprised me, and I think it is an ongoing issue for the upper House, was to find out that, in writing a report about school education policy, to my surprise, I was the first chair in the upper House who actually wrote his own report. The tradition ongoing is that the chair's draft report is essentially written by the staff. Some of the issues are so complex and at times confusing in the evidence you receive. I think the accuracy of evidence is another emerging issue for us. People come to these committees now thinking, "They're all politicians who just lie, why shouldn't I lie as well?" If you're not getting accurate committee evidence, how can you make accurate findings and recommendations?

I wrote the report about school education which, again, I think reflected on something that's fading. It was essentially evidence based, because schools are critically important. I've always had a longstanding interest. I'm only here because of a good public school education. I was the first in my family to go to university and so forth. But the thing about the education debate—which is often pitched as left versus right, public versus private and so forth, and controlled by the Teachers Federation—is that right around the world, in every single

jurisdiction, schools are being studied thousands of times collectively. There are no new findings in education. The evidence is clear as to what works in the classroom, so why do we even have a debate?

The reports we did in that area, and some stuff on tertiary education and parental rights in the school system—but particularly that first report on school policy reform that I wrote and that the committee, by and large, adopted, was about an evidence base. I think Peter Phelps spoke about the evidence base in politics. Unfortunately, it is fading. One of the reasons is that with the rise of social media, so much of what we do is within an echo chamber. There has to be self-criticism—on the crossbench, clearly, to tell your supporters what they want to hear on social media is a big part of the game. The echo chamber means that you get people speaking from ideology rather than practical, evidence-based policy outcomes. I don't know how Sarah saw it. Hopefully it was uncomfortable for her at times—I'm sure it was.

But from a committee perspective, I think the big things for the upper House now are the reliability of evidence and more chairs writing the material—because it is very unfair on the secretariat staff in these complex, detailed areas to expect them to be across the brief as well as an MP should be. It should be a fundamental public duty of an MP. And then to have these reports as evidence based as possible and useful for government and even future generations. I always thought about some of that stuff we did in the education committee—that 10 years from now a new MP could pick up those reports, dust them off and find some useful information that would inform their own work.

I know I'm being a bit longwinded here, but just one final point—the value of specialisation. With the rise of social media, every MP knows 2 per cent about everything, and you've lost the policy experts. I remember when I joined the Federal Parliament, you look at Robert Ray, John Kerin and Ralph Willis and you see experts in defence, agriculture and economics. You've lost that depth of public policy knowledge and attention in MPs. The committee system needs to foster that as much as possible.

The Hon. SARAH MITCHELL: Mark Latham in full flood is something to be seen, I have to say, and particularly being in budget estimates I think there were times when we would agree and there were times when we wouldn't. But it was always, from my perspective, respectful. Mark made a good point in relation to that policy subject matter, because it was very clear—and it still is, Mark—that you're highly intelligent, you know a lot about education policy, you are well read and well researched. That would come through in the questions and the way that you would frame that work. We didn't always agree.

The Hon. MARK LATHAM: You never said that at the time.

The Hon. SARAH MITCHELL: I don't think you said that about me either, but we can do it now—we're not in the roles anymore. It's true: I don't agree with a lot of your views. But I respect the way that you view research and you know what you want to put out there. That is something that you do see across the Parliament, really. You can have completely opposing views in terms of your policy but have quite a cordial working relationship, even if that's not always evident. That's how I would see it. I won't name names but, without doubt, some of the public servants were terrified of you in estimates as well. But I think, as I said, having a chair of a committee who was very passionate—there were some good recommendations that came out of that that we were able to use when we were in government.

For me, too, being an upper House member, knowing the personalities and knowing who was on the committee—when you're an upper House member and a Minister, you still prepare for estimates and you think about what might be asked and all that sort of thing, but you know the players, you know what people are interested in and you know what their core issues are. I find it interesting now, on the other side, watching some of the lower House Ministers come. They think that our Chamber is similar to theirs or that they can get away with not answering, but that's not how estimates works. When you know the nuances of the personalities and you know the things that people are interested in, I do think there is a strength in being an upper House Minister in a committee hearing or an estimates process just because of those relationships that are formed.

I know that Mark was very passionate about evidence-based work. I know he is the kind of member that would take the time to read individual school reports to then ask in-depth questions about things like targets and accountability. When you know the style of one of your colleagues and the areas they are interested in, it does help you to work through that process. Like I said, we did not agree, and we still do not on some things but, at the end of the day, you should be able to walk out, get in the lift, have a chat and go and knock on a door if you need to. I would say that is the relationship, by and large, that all upper House members have with each other, whether they are committee chairs, Ministers or anything in between.

Mr DAVID BLUNT: Mick Veitch, during the last term of Parliament, you were chair of a very particular committee. Tell us a little bit about that and why it was important.

The Hon. MICK VEITCH: David, how long have we got? Dr Phelps and I, in our lovely committee into committees, decided that the Legislation Review Committee of the Parliament was not spending enough time looking upon the regulations that were being put in place. There is legislation that goes through the Parliament, and regulation, of course, is decreed by Ministers under a clause of an Act to allow them to do delegated legislation—and there is more and more of that, just so you know. I think the numbers were 85 or 87 per cent of legislation or regulation in one year was regulation, so scrutiny of those regulations is really important to all of you. We decided that required a specific committee just to focus on the regulations, so we set up the Regulation Committee, probably to the consternation of our lower House colleagues.

I chaired that committee. It was a great committee, and to chair it at the commencement was also pretty critical, because it shapes the way in which the committee will operate into the future. We had a couple of options we could look at, and we did. When a disallowance motion was moved on a particular regulation, we decided we could lift that regulation up, take it to that committee for an inquiry, have the inquiry and then have the debate reinstated when the report was tabled. So rather than go straight into a debate around whether or not the regulation or a part of the regulation should be disallowed, it better informed the debate in the Chamber around that. We conducted a couple of those inquiries, and then those who advised the committee were very instrumental in the committee actually looking at some policy work. We conducted a couple of inquiries. One was around delegated authority, what it looked like in New South Wales and what role the committee actually had, which led to changes to the standing orders and the capacity of the Regulation Committee to conduct its inquiries.

But then we also looked at things like the instruments. Legislation and regulation are disallowable and so can come before the Parliament, but instruments like SEPPs, for instance—State Environmental Planning Policy—do not get before the Parliament. So we looked at whether the Regulation Committee could pick up some of those instruments and have a look at them to see what the consultation process was, how they came about, could they be improved and that sort of thing. We evolved the work of the Regulation Committee. I do, from time to time—David, I know you would be very happy to hear this—have a look at the work of the Regulation Committee as it is now operating. I think it is heading down the path that we envisaged. I think it is a very important committee, mainly because of the amount of governance that takes place now in the delegated legislative area.

Mr DAVID BLUNT: Susan Carter, you are a member of that committee. Would you like to add a comment about recent events?

The Hon. SUSAN CARTER: Picking up on what Mick said, there is an enormous volume of delegated legislation, and it is often seen by Ministers and departments as being an efficient way to get things done. You just put the regulation out. You know what you want. You do not have to worry about getting it through Parliament, and the world works more smoothly. But, of course, the review process that is inherent in a democratic system doesn't work more smoothly unless there is a review process. I think what the Regulation Committee is doing is driving really interesting cultural change, because the practice is essentially, if an issue is identified with regulations, to write to the Minister to advise what the issues are and to seek their comments on that.

When those letters started going out, that was a bit of a shock to some people. But it has been really good because it has created a dialogue and it has created a greater awareness of the role of the Executive—that's the Ministers—and the role of Parliament, essentially reminding the Ministers that it is Parliament's obligation on behalf of the people to be reviewing the regulations. They must be made within power according to certain set processes. I think it's driving a really good cultural change.

Mr DAVID BLUNT: We've got about 20 minutes. I thought I might open it up to all of you, our excellent audience, for questions.

AUDIENCE MEMBER: I just wanted to raise the issue of why, having listened to this morning's and this afternoon's sessions in relation to the composition of people who vote for government, we have heard nothing of the date at which voting rights were extended to Aboriginal people, and what the implication of that might be, and how late they were. I ask that question in the context of Justice Jagot's advice when she was chair of the National Native Title Tribunal to the then New South Wales Attorney General that it was important that New South Wales change its threefold criteria for the recognition of native title because it requires the traditional custodians not only to be descendants of those who were dispossessed from country, but also to have continued to live on country and to have continued their traditional practices, whatever that means in the current context.

Justice Jagot is now a judge in the national court. But I wonder why her response and the impact that was requested of the New South Wales Government to review that has not been addressed since it was made, and why the last Liberal Government formed an accord not with the traditional custodians, who are hard to find a generalised representation, but an accord with the land councils that says that if the traditional custodians do not hold native title rights—which are a gift of the Parliament—then the land councils speak for the traditional

custodians. That is a particular problem on the Central Coast, where I live, where there is no native title and the land councils say that the traditional custodians never existed.

Mr DAVID BLUNT: Would any members of the panel like to respond to that?

The Hon. SARAH MITCHELL: I'll have a go.

Mr DAVID BLUNT: Perhaps we might also get a response from Antony Green on the issue of voting rights and exactly when Aboriginal people in New South Wales had the right to vote.

Mr ANTONY GREEN: Because of a joint role in agreeing with the Commonwealth for a long time, it would have been in the late 1950s, in my memory. At Federation, only Indigenous people in South Australia had the right to vote, and that was removed by the first Electoral Act—probably unconstitutionally, but there was no High Court at that stage. That's about all I can say to that.

The Hon. SARAH MITCHELL: I'll just say a couple of things. I don't pretend to be an expert in the complexities, but I was Minister for Aboriginal Affairs for two years here in New South Wales and fully across the challenges to do with native title land rights. They were there long before I was the Minister, and they continue today. What I would say, though, is that, yes, there are sort of formal arrangements between the government of the day and the land councils and that's obviously through things like the land rights Act. But that doesn't mean that that's the only engagement that you have, particularly as a Minister or even as a member of Parliament, with members of the Aboriginal community. You meet quite regularly with lots of different people in different communities. In some areas, the land council will be the most active; in others, it might be other organisations of Elders as well.

Even though there might be formal arrangements with certain organisations, that doesn't preclude work and conversations with a range of key stakeholders. Certainly during my time one of the most profound things that we did here in this Parliament was the passing of the Aboriginal Languages Act. We had a really incredible day. Mick was there and David would remember it as well. We had Elders here on the floor of Parliament speaking in language. We had a message stick that was presented to the upper House, which remains on display, which we put on the table when we're having debate around legislation that has a particular impact on Aboriginal people as well. What I would say in answer to a very complex question is that that dialogue is ongoing, that respect is certainly there regardless of which party is in power and that work with the Aboriginal communities continues, as it needs to do, because, clearly, there is more work that needs to happen. But that's probably about all I can offer.

Ms JENELLE MOORE: We've talked about a lot of the really positive things about the Legislative Council and there are many. Aside from returning Mr Veitch to the Council, which would definitely improve the Council, what are some of the things that you would like to see happen to improve it or that might take it further into the future?

The Hon. MICK VEITCH: It's a good question. Can I just say one of the things that happened in my time—COVID actually, I think, in a way dragged the Legislative Council into the modern age. We started having hybrid sessions of Parliament and the like and committees. I still have post-traumatic stress about using Webex but that's a whole other matter. That then availed greater—particularly the regional MPs. We were able to fulfil our obligations from home or from wherever we were in regional New South Wales. We didn't have to keep coming to this building. We weren't anchored, so to speak. I think there was a change.

Building on that, one of the things about Parliament and being a parliamentarian is trying to raise awareness of the activity and the work of an MP and the Parliament as a whole with a broad range of stakeholders, just as an educative process. I think the Parliament making efforts, particularly the committee system and the committees when they travel out to the regions or wherever trying to meet with a range of different stakeholder groups, whether it be the schools—taking the committee process to the people, getting people engaged in the process I think is a good thing, or at least being aware of what that process is. Because it's one of the ways people can engage with the Parliament.

I think the other thing, Jenelle, is that this is one of the few occupations where you get elected without a lot of training—seriously. That's good and has its failings. I think one of the things that could help a lot is just providing greater information around what is the role of an MLC. Because most people—and I'm being generous—have absolutely no idea what a member of the Legislative Council would do on a day-to-day basis, and I think raising that awareness amongst the community would actually help the body politic as a whole.

The Hon. SUSAN CARTER: I'm of the opinion that nothing much sensible happens after midnight and that includes debating legislation. We have a hard adjournment at 10.30 p.m., which means, having started typically the parliamentary day at 10.00 a.m., we will sit no later than 10.30 p.m. I'm pretty new. I've been here until 6.00 a.m. I've started a new sitting day, having finished at 10.30 p.m., at a minute past midnight. I'm not sure

that that's really the way that really good decision-making happens. It'd be great to see something happen in terms of understanding that this is very serious work that needs consideration and, if people have had a good sleep, they'll do it a lot better.

The Hon. SARAH MITCHELL: I would say the introduction of timed speeches. That happened during my time. We used to have sort of open-ended speeches, and there were some members that spoke five or six hours for single contributions. So the 20-minute cut-off, I think, was a good thing to bring in. I sort of agree with Susan's point. It does reach a time, particularly when you are here very late—when I first got in, you would go all through the night and to all hours of the morning and be back here again, and it isn't very conducive to sort of—

The Hon. MICK VEITCH: We stayed on weekends.

The Hon. SARAH MITCHELL: Yes, we did. We had a big legislative agenda; that's why. But you're right. It's not conducive to clear thinking. And then, to pick up on Mick's point, I would agree. I can't tell you the number of times that I'll be in the supermarket at home and people go, "Oh, how's Canberra?" And often it's easier just to say, "Oh, yeah, good, thanks," because by the time you explain what you do and that you're not the local MP but you're kind of like the Senate but we're not called the Senate, your milk and your eggs will go bad, so it's easier just to smile and nod sometimes.

Jenelle, you'll probably hate me for saying this, but the work that the Parliament has done this year—and I know it's the bicentenary year of the Legislative Council, and I do want to mention President Ben Franklin, who's sitting quietly up the back there. But the engagement out in the community, having schoolkids involved, doing public speaking, coming down here, panel sessions like this—we've had some amazing events this year, all thanks to the hard work of people in this room. I know when I say, "Let's do this every year," you'll say, "No."

But I do think there are things that we have learned in terms of that interaction that hopefully we can build on as a Parliament going forward that just worked and made people more aware, particularly, of what the Legislative Council does. People know their local member, kind of. They might see them occasionally. They've got to vote for them by name. We're a bit more of an enigma, and, like I said, most people think that I work in Canberra.

The Hon. MARK LATHAM: My mother still asks me how am I going in Canberra. But she's 90 years of age, in a very fine nursing home. So, Sarah, you're not alone in that regard, and sometimes it's close to home. If I can nominate a few things, I think in terms of accountability and scrutiny of the Executive Government, particularly on integrity issues, the time's coming where we have to enforce our own rules. We don't, as a Chamber, despite 200 years of history, have any penalties for contempt of the Chamber. I know there's been an historic disagreement between the two Chambers. I think that needs to be revisited.

It's 40 or 50 years since we've enforced the rule about wilfully misleading the Parliament or a committee, which is a growing problem for the reasons I mentioned earlier on. The one I started with is that there should be an expectation that committees write their own reports, particularly in complex, detailed areas. This integrity dance we have—every Opposition promises much higher standards of integrity. Soon as they get into government, that's forgotten. Some of the answers, or non-answers, we're getting on the *Notice Paper* at the moment are the worst ever, and we need some mechanism for holding the Executive government to better account on that front.

AUDIENCE MEMBER: I guess just to the education Ministers on the panel, you mentioned that schools have been studied a lot and what works in the classroom is very clear. During COVID, did you see those goals and what worked in the classroom were still the same, or did that have to change or was it just a need for adaptation with the circumstance?

The Hon. SARAH MITCHELL: Good question. It's really interesting looking back now at that period of time. The decisions that were made were absolutely made with the best interests at heart, with the best health advice. I don't know if I'm allowed to say too much about this, and I'll probably get myself into trouble—although I'm in opposition now; it doesn't really matter. I was part of a smaller group of Ministers and the Premier who would get pretty intense briefings from health experts about what we were seeing here, but also around the world, and so trying to really negotiate something that had never been done before was hard. I know, obviously, there's been a sort of Federal report recently looking into some of the decisions around COVID.

The SMH did a piece not long ago specifically about education and COVID and what we did and all the things we did wrong, but no-one else was in those rooms making those decisions based on the evidence that we had. I was very, very conscious of the need to have the best opportunities for continuity in education that we could, and part of the reason why we went to learning from home was a lot of parents were keeping their children at home. Very early on, before the vaccine was available, as a mum or a dad, often you think that your kids are the first to pick up anything that goes around the school playground. We didn't have enough young people coming to school, and we thought, "We need to find a way to manage that."

The way that the department and the teachers, who were phenomenal, managed to then move everything to some form of learning remotely, whether it was online, some using correspondence, a bit of a combination—was it perfect? No. But we made it through. We found opportunities to get people back as quickly as we could. Part of the challenge was actually not about the students. It was about parents at the school gate or teachers interacting and the impact that would have. I found out during that period that a lot of teachers were either married or in relationships, because one would go down and then the other one would go down, or some were flatmates. So you'd have this whole sort of flow-on effect if people in the community had COVID.

I could talk about this all day, but I won't, because I know that's not what we're here to do. I guess the purpose was that it was about trying to make the best evidence-based decisions that we could based on health but also the social impacts. I did think that there would be some challenges going forward for a little while as kids got back into getting into routine. Part of it was actually about making sure that you had that emotional and wellbeing support around as well as the academic. It was not fun. I would not advocate for trying to have a global pandemic and run the biggest education system in the Southern Hemisphere. It was hard. But, to this day, I hand on heart say we made the best decisions that we could based on the best evidence, including both health and that social interaction as well. It's crazy when you think back about it now. I hope that answers your question.

The Hon. SUSAN CARTER: Apologies. I have to go. But thank you very much.

Mr DAVID BLUNT: On that note, can I ask everyone to thank Susan Carter as she leaves. I think that's actually brought our program for today to a close. Therefore, can I ask you to thank our other panel members, Mick Veitch, Sarah Mitchell and Mark Latham. We look forward to you joining us again tomorrow for our final day in the bicentenary program. We have a very full day planned, so we ask that you come straight here in the morning for our 9.00 a.m. start. If you have any questions about arrangements, see one of the Black Rod staff before you go this afternoon. Thanks, everyone.

The conference adjourned.

Day 2

200 Years Young: Visions for our democratic future

Tuesday 10 December 2024

INTRODUCTORY REMARKS

Mr DAVID BLUNT [Clerk of the Parliaments]: Good morning, everyone, and welcome back. I really feel that with the music, what should happen now is the curtains should part and we should be watching the Legislative Council, the movie. Perhaps the first part of the trilogy? The third part or the second part? But, no, we're here for day two of the conference, *200 Years Young: Visions for our Democratic Future*, as we imagine the future of parliamentary democracy.

We've got two informative sessions coming up, one after another, and then we break for morning tea at 11.00 a.m. To introduce our first speaker this morning, I welcome the Hon. Chris Rath, MLC, to the stage. Mr Rath is a member of the Liberal Party, the Opposition Whip in the Legislative Council, and shadow Special Minister of State. He has a chapter published in the book *The Forgotten People Updated: Liberal Essays on Modern Australia*. He enjoys marathon running, sailing, skiing, opera, free market economics, history and, of course, politics. Please join me in welcoming the very well-rounded Chris Rath.

FORTY-TWO'S A COUNCIL, FORTY-THREE'S A CROWD: DO WE NEED MORE MEMBERS OF PARLIAMENT?

Professor RODNEY SMITH, Professor of Australian Politics, University of Sydney

The Hon. CHRIS RATH [Member of the Legislative Council]: Thanks, David. Of course, you too enjoy marathon running, and I'm not just talking about the marathon sittings in the Legislative Council that we're often subjected to. Honestly, thank you, David, President Ben Franklin and all the staff at the Parliament for making this conference possible. I welcome back Professor Rodney Smith, who gave a fascinating recount of the history of the Legislative Council between 1924 and 2024 yesterday morning. Today Professor Smith will be asking us to consider the rather controversial question: Do we need more members of Parliament?

Rodney Smith is a professor of Australian politics at the University of Sydney. He is also a former president of the Australian Political Studies Association. He has written academic articles, chapters and books on aspects of New South Wales politics, including the Legislative Council. Notably, he's the author of the book *Against the Machines: Minor Parties and Independents in New South Wales, 1910-2006* and he is a co-editor of the book *From Carr to Keneally: Labor in office in NSW 1995-2011*. Please join me in welcoming back Professor Rodney Smith.

Professor RODNEY SMITH: Thank you, Chris. It's nice to be back. I think I was invited back to give a bit of a provocation this morning to wake people up on the second day. I think this idea originated some years ago when I made some rather more off-the-cuff remarks about the possibility of increasing the number of parliamentarians in the New South Wales Parliament, which, as I recall, went down like a lead balloon last time I presented it in front of mostly then current and former members of the Legislative Council. But maybe it will get a better reception this morning. Who knows? We can live in hope.

I would like to start off by talking about one of the joys of my academic life, which is teaching a unit of study at the University of Sydney called Parliament and Democracy. It's a third-year, upper-level unit, so the students have done a little bit of politics. They're a little bit advanced in their studies. As part of that unit, we engage with the New South Wales Parliament. We come down on four occasions during the semester in lieu of lectures. Chris Rath was actually kind enough to participate in one of those sessions this semester. I try to make this unit as practical as possible—not theoretical, not abstract. There's some comparative stuff, but what I want the students to do is to engage with the real Parliament and learn how a real Parliament works. One of the assessments that I ask the students to do is to write an opinion piece for *The Conversation* on whether or not the Legislative Council should be abolished. They do not publish it, but they write it as if it is a Conversation piece. They have to learn the style of *The Conversation*, with which I am sure you are familiar, and present it in that way.

If you are a supporter of the Legislative Council, you will be happy to hear that this year, of 41 submissions, 39 supported retention of the Council. Two bold souls argued for its abolition, mostly on grounds of efficiency, but for the vast majority of students—perhaps they were picking up my lead; I don't know—were supportive of the retention of the Legislative Council, with some improvements. That was also part of the brief; if they wanted to keep the Legislative Council but improve it, that was perfectly fine. That was the first assessment. The final assessment I get them to do is suggest reforms to the New South Wales Parliament, to suggest a reform that would make the New South Wales Parliament contribute more strongly than it currently does to democracy in New South Wales. It is up to them what they choose.

It was interesting this year. There is always a range of responses to this, and this year there were quite a few on changing the electoral system. There were a number on reserved seats for First Nations peoples in New South Wales. There were a number on shifting to a virtual parliament or a hybrid parliament where more activities were done online. I think we will hear more about that later today. The ones that looked specifically at the functions of Parliament focused on improving the committee system, dealing with petitions more effectively to give people feedback on what they thought was wrong with politics in New South Wales, or a particular issue and so on. Most of that involved setting up a petitions committee along the lines of the Western Australian Parliament or the Scottish version of that petitions committee, or restructuring the committee system so that it was more attuned to protecting or considering the protection of people's rights and liberties.

What you might pick up from that is that nobody was arguing that the Legislative Council should do less or the Legislative Assembly should do less. Most of the arguments were about either restructuring different aspects of the Legislative Council and the Legislative Assembly or making them do more, or recognising that they should be doing more. This is the starting point for my suggestion: this idea that, when a group of educated, thoughtful,

reflective students at the University of Sydney think about the Parliament, they do not think it should be doing less or getting out of the way of the Executive or the bureaucracy or whatever. They think it should be doing more than it does. They do not think Parliament does a bad job, but they think it should be doing more of a good job.

In many ways this mirrors the increase in the work of the Parliament, especially the Legislative Council, in recent decades. If you look back over the past few decades of the Legislative Council, it is indeed doing more than it used to do. The Parliament as a whole is doing more, the Legislative Council particularly so. We expect more as citizens of our New South Wales Parliament. That is partly because the Executive governments do more than they used to. Some people might not like that; if you are a libertarian or a small-government person who thinks that society and markets can sort things out, that is a bad thing. But I am not making this as a normative statement. I am just reflecting on the fact that governments do more than they once did. If parliaments' functions are to deal with legislation and keep Executives accountable, the more Executives do, the more legislation they try to put through the Parliament and the more activities they engage in as the Executive, the more we must expect parliaments do to keep those Executives accountable and to properly scrutinise legislation.

That's the kind of starting point for this proposal—that we might think about increasing the number of members of Parliament, specifically in the Legislation Council, but also the Legislative Assembly, in order that the Parliament may be able to carry out this task even more effectively than it does. It's clear that there are new areas of government. There are new areas in which the Government is interested, and Parliament is interested, that once would not have been considered worthy of the Parliament's or Executive's consideration. Take, as an example, a current inquiry in New South Wales, established in August this year, in which the Standing Committee on Social Issues of the Legislative Council was given the responsibility to inquire into "the prevalence, causes and impacts of loneliness in New South Wales". If you think about that and think about 100 years ago, there is no way the Parliament of New South Wales would be considering that sort of topic—maybe even 30 years ago or 20 years ago.

It's a new topic, a new area of inquiry, a new area of interest, and a new social problem with which the Executive and the Parliament are engaged. That inquiry has attracted 143 submissions. I haven't read them all, but I've read some of them. They are very interesting. One included an idea—and I think this got some media coverage—that there should be a "Minister for Loneliness" established in this State. If we're going to have a Minister for loneliness—and, again, I'm not suggesting that this is a good or bad thing—it implies more accountability on behalf of the Parliament as the ministry yet again expands its portfolio responsibilities. To give a broader picture of this activity of the Legislative Council and the demands on members of the Legislative Council, I just want us to consider the Legislative Council's committee work for the moment. Remember, there are 42 members of the Legislative Council. There are five Ministers—I hope I get all of these figures correct.

The PRESIDENT: Six.

Professor RODNEY SMITH: There are six Ministers in the Legislative Council. You've got to take them out of the equation, because Ministers don't sit on committees. There is the President, who sits on one committee, so you've got to take, more or less, the President out of the equation. You can start to do the maths in your head. We're now down to 35 MLCs who are available for committee work. The committees are structured along partisan lines in a complicated way that I'm not going to attempt to summarise. But it puts particular responsibilities on, I think, the party of government. At the moment the Labor Party—someone will yell out if I'm wrong—has 15 MLCs. If you take out six of them, you have nine MLCs available to carry out that committee work. Think of the crossbench. The crossbench is large, but it is represented on most of these committees. Think of the poor old Opposition. It has about one-third of the number of MLCs and it is represented on all of the committees.

There's a lot of work. Let me just demonstrate that. As I said, I can't entirely vouch for these numbers. I tried to be as careful as I could be, but I may have left some out. At the moment, I think the figures are something like this. There are five select committees. There have been five select committees in the Fifty-Eighth Parliament since March 2023. They are birth trauma, disability support, PFAS, Rosehill racecourse and renewable energy. In total, that includes 39 Legislative Council members. There are nine standing committees: law and justice, State development, social issues, animal welfare, privileges, procedure, public accountability and works, regulation, and selection of bills. That is 86 members in total.

There are the eight portfolio committees that we talked about yesterday on and off. I haven't listed them all there, but they start with Premier and finance at No. 1 and go all the way through to customer service at No. 8. They also operate as estimates committees, which we heard a little bit about yesterday afternoon from our MLCs. That is a total of 56. There are four joint committees—committees with the Legislative Assembly—to which the Legislative Council provides 18 members of the 37. There are seven joint statutory committees—22 of the 55 members of those. They're the ones that oversee the Ageing and Disability Commissioner and the ICAC

Commissioner, and so on, and so forth. There are three joint select committees—13 of 29 members. The grand total down the bottom there is 36 committees, with 234 members required from the Legislative Council. I've got that wrong because I said 37 available MLCs. It is 36—35, excluding the President. That's a lot of work. That's a lot of serious work. Now, I'm not saying that those committees run all the time and that they're equally active all the time. I know there are peaks and troughs. But we're expecting a lot, just in that committee work, of our members of the Legislative Council in particular.

More work is being done by the same number of members since 1991, when the 42-member Legislative Council was established, and we've reduced numbers compared with most of the history of the Legislative Council. My next table shows a little bit of that history. I'm not a historian, so I may have selected figures that suit me. I haven't, actually. You could select a different set of dates and you would come up with more or less the same story. If we go back right to the start, I know the first Legislative Council wasn't representative. It had five members. But the ratio of members to population was one member for 7,300 residents of the colony who counted. I know there are exclusions there around Indigenous Australians, who were not counted in that total. But it was one to 7,300.

Then, if we go to the period that Frank talked about yesterday, when the council was appointed by the Governor and Premiers kept suggesting to Governors that they should add more members when they didn't have enough who agreed with them over time, the membership fluctuates and the membership relative to the population fluctuates. Here I have the membership at the start of the first Henry Parkes ministry in 1872: 36 MLCs, one MLC for roughly 14,000 residents. By the end of Parkes's fourth ministry in 1889, it's up to 86 members of the Legislative Council. You can see why the Chamber for the Legislative Council might have been a bit crowded in those days, if they all turned up. The population is a little bit over a million—1,100,000—so it's one for every 13,000. During that period, the ratio roughly stays the same, if you look at that column second from the right.

In 1933, the first indirectly elected Legislative Council—60 members and 2.6 million people counted in New South Wales. It goes up again to one member for roughly every 43,000 New South Wales people. I'm not talking about voters here; I'm talking about people. And then, if we look at the first directly elected Legislative Council in 1978—45 members, 4.8 million residents of New South Wales. We're now over 100,000 people in New South Wales per MLC. The ratio gets higher from there. In 1991, the current Council begins, with 42 members, 5.1 million people in New South Wales. That gives you one MLC for 120,000-odd New South Welsh people. That's following the reduction in Council numbers from 45.

If we look at the current situation, second from the bottom—42 MLCs, 8.5 million people. One member of the Legislative Council, notionally, is looking after 202,000-odd people. To telegraph my modest proposal, if we went to a Council of 60, that would be reduced to one in 141,000—a little bit worse ratio than 1991, but around there. The situation then is that the Legislative Council is doing more work, representing more people with the same numbers of members since 1991, and fewer for most periods in terms of ratio. Often, in terms of absolute numbers, if you look at the first column, you have to go back to the 1870s to find smaller Councils, which is a long time ago when the population of New South Wales was a lot smaller than it is now.

It is the same for the Legislative Assembly. I don't want to leave it out of things. Running quickly through the same sorts of figures, in 1856 there were 56 MPs and 250,000-odd in the population. That is one member of the Legislative Assembly, one member of Parliament, for every 6,000-and-a-bit people. Then it goes down. Why does it go down in 1859? It grows a bit to 80 and then it goes down to 72 because Queensland becomes a separate colony, gets its own Parliament, and so wisely the New South Wales lawmakers think, "We don't need such a big Parliament now that we're representing fewer people."

In the late nineteenth century, at least between 1880 and 1894, there is an increase all the time from 108 members of the Legislative Assembly up to 141, and this reflects the growth in electoral roll numbers. The electoral roll grows—again I have used population rather than the electoral roll, but they pretty much grow in tandem—and the ratio of MPs to the population stays reasonably close. It starts at about one in 7,000 and finishes at about one in 8,000. It is reasonably close. There is a big growth in the number of MPs over that period, 108 to 141, but the ratio stays reasonably contained.

In 1904 it goes back to 90 members of the Legislative Assembly. Why does that happen? Because there is a Commonwealth Parliament now and the rationale is "The Commonwealth is taking over these responsibilities. They are doing some of the heavy lifting that used to be done by the New South Wales Government and the New South Wales Parliament. We don't need as many parliamentarians in New South Wales, so we can cut back the numbers." You can see that the ratio is more than it was in the late nineteenth century, but it is still relatively low. Fast-forward to 1988, when the most recent peak in numbers occurs, and that is at the end of the Unsworth Government in 1988 when 109 MPs are elected. The population is 5.7 million and you can see one member of Parliament for every 52,000 people.

From here on, there are a couple of changes. The last change was in 1999. The previous one was 1995. They were basically for party advantage. The Unsworth Government knew it was in trouble. It changed the number of electorates to try to minimise the damage and create a whole lot of new electorates and new electoral boundaries to try to change the electoral equation. It didn't help; it got wiped out. The Greiner Government comes in and the numbers are reduced, then reduced again to 99 and then reduced again by the Carr Government. The current situation in 2024 is that there are still 93 members of the Legislative Assembly. The population is much bigger, another two million people, so the ratio now is one to a little over 90,000 people. If you increased the Legislative Assembly to 121, it would bring that down to one in 70,000-odd, so it would be back where it was in 1999, roughly.

That is just to put things into context, to suggest there is no magic number for the Legislative Assembly or the Legislative Council, that the numbers are varied and the ratios are varied. Generally speaking, the ratios have grown larger. This growth in the ratio of population to number of members of the New South Wales Parliament indicates some valid reasons for increasing the numbers of both Chambers, including representation. It is harder to represent more and more people.

I understand that these days communication channels have changed, of course. We're no longer in the horse-and-buggy days or the telegraph days, or the days of putting a letter in the post or whatever. But we're also no longer in the days of large public meetings and gatherings and so on—people joining associations and meeting up in person—so it's unclear how much really has changed in that regard and what the connections between MPs and their citizens are relative to the past. They've certainly changed, but it strikes me that representation is a problem for parliaments, not just the New South Wales Parliament but parliaments in other jurisdictions in Australia.

But to return to my first theme, it also strikes me that in terms of the legislative and governmental responsibilities of the Parliament, the numbers aren't big enough relative to those responsibilities. My modest proposal is for, as I foreshadowed, a Parliament which would consist of 121 members of the Legislative Assembly and 60 members of the Legislative Council. You can take "a modest proposal" in the Swiftian vein or you can take it that I'm serious. It's up to you to work out which one it is.

But let's get down to some practicalities. How would we elect such a Legislative Council? The Legislative Assembly is relatively clear: you just draw 121 electoral boundaries, and there you go. But with the Legislative Council, things are slightly more complex. I think there are three main options. There are some others, but I don't think they'd be acceptable. The first would be to divide the State up into regions. If you had 60 MLCs, you could have six regions each electing 10 MLCs. Why might we do this? This might be good for rural and regional New South Wales. If you were here yesterday afternoon you would have heard Mick Veitch say that, for a time, he was the only Labor member of Parliament living west of the Great Dividing Range in Queensland, New South Wales or Victoria.

If you've got Labor down to one representative from rural and regional New South Wales, you're probably not representing rural and regional New South Wales terribly well. There can be arguments about how well Labor's ever represented rural areas; I don't want to get into those. But I suspect it's a bit hard to represent those regional areas adequately if you only have one representative anywhere in the Parliament. So it might be good for rural and regional New South Wales. It would also increase the quota. If you think about a quota based around electing 10 MLCs for any particular region, that's going to increase your quota from its current level—it will more or less double it. If you're not a fan of small parties or parties with small levels of support getting elected to the Parliament, you might like this sort of proposal. It potentially weeds out the parties with very small levels of support.

But if we look at Victoria—and I can hear Frank's brain whirring already—which has this sort of regional system, let me read out the names of the parties that are represented in the Legislative Council in Victoria. You might hear some familiar names: the Australian Greens; the Legalise Cannabis Party; the Liberal Democrats; the Animal Justice Party; Pauline Hanson's One Nation Party; the Shooters, Fishers and Farmers Party; and an unfamiliar name to those of us north of the border, except those of us with historical knowledge, the Democratic Labour Party. Most of those names, though, are names of parties currently represented in the Legislative Council of New South Wales under the lower quota. So raising the quota doesn't necessarily exclude the sorts of parties we already have in the New South Wales Legislative Council. A second proposal would be to have 20 MLCs elected at each election, therefore for three terms—12-year terms.

The PRESIDENT: Hear, hear!

Professor RODNEY SMITH: I'll talk to you later. We can work on this. This would give us more diversity and stronger minor parties, arguably. Antony Green made the point yesterday that minor parties struggle to expand. Part of the reason they probably struggle to expand is that they're relying on one or two members in the Legislative Council. If you have more Greens, for example, they're going to be able to share the work more

effectively than if you're relying on one or two. It would use roughly the same quota. The quota would increase a couple of percentage points. Doing that would probably not particularly affect the chances of parties of being elected. It would introduce 12-year terms, which some people would see as being too long a time between elections to keep MLCs accountable. But you would get a relatively stable Legislative Council over time, if that's your interest.

The third option would be to keep the current eight-year terms and elect 30 MLCs statewide. This would give you more diversity because there would be a lower quota—3.23 per cent rather than the current roughly 4.55 per cent. There would, presumably, be a bit more diversity. There would be stronger representation of minor parties. Would there be too much diversity? I ran some numbers on the train coming in this morning. The results are that if we look at the last New South Wales election and we map them onto a quota of 3.23, you don't get terribly much change in the outcome. The Labor Party, under a 30-seat MLC election, would have got 11 seats and the Liberal and National parties nine or possibly 10. The Greens would have got two or possibly three. One Nation would have got one or possibly two. The Legalise Cannabis Party would have got one and the Liberal Democrats one. Then the Shooters, Fishers and Farmers Party would probably have got one, the Animal Justice Party would have got one, and there would have been a lottery, as there always is, for the last seat. It is not a particularly different outcome from the 2023 election.

There are three options for you. If you want to do it, I think it can be done in different ways. These different ways emphasise different strengths and features of the current Legislative Council. What are the barriers? If I was teaching this as a class, I'd divide you up into two halves and say, "You have to come up with arguments for this; you have to come up with arguments against this proposal." But let's skip to the chase. I think there are cultural and ideological barriers, obviously. There are the ideas that there are too many parliamentarians and politicians already, that you can't trust them, that they don't work hard, that they're just there for the money et cetera. If you're a sitting member or a member of the public who talks with other members of the public, you'll know that these arguments are very common.

There's also what I like to think of as the magic number barrier. Once you have a number—42 in the case of the current Legislative Council—it takes on a mythical or magical status such that if you fiddle around with it, somehow the world will fall apart. It would probably surprise people to know how much the numbers in the Legislative Council and the Legislative Assembly have changed over time and the reasons for which they've changed. There are clearly constitutional and institutional barriers. The parties would start worrying about their advantages and disadvantages of any change. There would be a lot of haggling and negotiation around that. Then under the manner and form provisions of the New South Wales Constitution—if Anne Twomey were here, she could step in at this point—there would have to be a referendum.

It would perhaps face a difficult task, given what we heard yesterday from Antony about the slogan presented to the people as the question for the last reduction in numbers in the Legislative Council: Do you want fewer politicians? That's a very powerful argument in Australia, sadly. What are some winning arguments? I think winning arguments for more MLCs are more diversity of representation, more capacity for legislative scrutiny and more capacity for Executive accountability. Mark Latham was talking yesterday at some length, on and off, about this during the MLCs' panel. He was saying that MLCs should write their own committee reports. If you want to take that seriously, I think you need more MLCs, given the number of reports they'll be writing. But more broadly, if you want the Executive and all the things that it does now in New South Wales that it didn't use to do—if you want to keep it accountable—then you need more MLCs to serve on those many committees that I outlined before in order to achieve that.

I think another argument in favour of expanding the Legislative Council is MP envy: the envy of the members of the Legislative Assembly. If you expand the numbers of the Legislative Council, the Legislative Assembly isn't going to let you do that unless you also expand its own numbers, I don't think. This will be a good thing. It would allow for better geographic and community representation in New South Wales than we have at the moment. We have a historically high ratio of population to members of the Legislative Assembly.

As I said before, obviously means of communication between constituents and the general public and their representatives in this place have changed over time, but my sense is that the connection between members of Parliament and their communities is not as strong as it should be in a healthy democracy, and that's not the fault of MPs. MPs work very hard by and large. I know Peter Phelps was sort of dissing MPs and their work in the community yesterday, but that work in the community is a very important part of their role, and of course it feeds into the accountability role and the legislative role.

Communities are more complicated than they once were. The needs of communities have varied. The things that communities want to have a say on are quite varied, and it's more difficult to do that if you're one representative for a geographic community that has suddenly become much larger in the case of rural and regional

New South Wales geographically, but also much larger in population terms for everybody and more diverse for everybody who is attempting as a parliamentarian to represent a community. I think more MLCs and more MPs would make for a better Parliament all round. Now I'll put my helmet on and invite questions from you in response to my modest proposal. Thank you.

The Hon. CHRIS RATH: Thank you, Rodney, for that incredibly thought-provoking presentation. We now have questions, both from the audience here live and also those online as well. If you have a question, please raise your hand.

AUDIENCE MEMBER: Thank you. I don't know who first said it, but democracy is an ideal which we strive for and we can never actually attain a perfect democracy but it is worth continuing to seek to improve the system, so I support you making these proposals. But I completely agree with you: I think it would be hard to get it through a referendum. Something that would be much easier to get through a referendum would be to look back at the Legislative Council. The first Legislative Council was five people and it included the colony's—I think it was called the Attorney General, the legal officer. Sorry, it was the judge. There was the Treasurer and there was the medical superintendent. It lists those three and then, I think, the deputy and the military contingent or whatever. They were advising the Governor.

I think there would be much more support for direct democracy where we actually have an opportunity to elect the Premier and four senior Ministers. One would have an economic portfolio, the Treasury; one would have a legal and security portfolio, the Attorney General; one would have a social security portfolio, education, health et cetera; and then the fifth would probably be an infrastructure Minister. There would be a lot of community support, I suspect, for the ability to elect those five positions and it would be a lot cheaper than expanding both the Assembly and the Council. And then, obviously, there would have to be junior Ministers under them that would be selected from the parliamentarians. It's just a thought. I don't know if you have any views on that.

Professor RODNEY SMITH: I think I've understood the proposal. Is the proposal to abolish the Legislative Council?

AUDIENCE MEMBER: No, you keep the two councils. Basically, you elect five Ministers—the Premier and four senior portfolios. They are the senior Ministers.

Professor RODNEY SMITH: And they wouldn't sit in the Parliament?

AUDIENCE MEMBER: They wouldn't be in government. So, again, it's a multiparty government. You wouldn't have them all from the same party. The Federal system seeks to enforce a two-party system. New South Wales has a good electoral system which does not seek to enforce a two-party system. This would be going a step further, going towards a multiparty Cabinet.

Professor RODNEY SMITH: Okay. It would depend on the electoral mechanism whether you get a single-party Cabinet or not. There is no guarantee that you would get a multiparty Cabinet.

AUDIENCE MEMBER: Exactly, and that's good if you do.

Professor RODNEY SMITH: Yes. It's an interesting proposal. I don't think it addresses the Executive accountability issue that I was raising. I don't think it addresses the legislative review issue that I was raising. Let's talk more about it, but as a proposal I think it would not address those two elements of legislative activity which I see are important for the Parliament, and I don't think the Parliament can as adequately do it with its current numbers as it could if it were expanded. I'll leave it at that.

AUDIENCE MEMBER: I must admit, I'm horrified at the idea of there being 121 MLAs. Disclaimer: I work for an MLA. My boss might kill me for saying this, but I do think 93 is enough. I have two questions—you have touched upon the first. Could we increase the numbers for the Legislative Council without increasing numbers for the Assembly? I certainly agree that 42 Legislative Councillors is not enough. But if we're going to increase members of the Assembly, should we consider the New Zealand model of a MMP system where constituents have two votes, one for a local member and the other for a party of government? I'm not advocating one way or the other.

Professor RODNEY SMITH: Good questions. Yes, of course you could increase the number of MLCs without increasing the number of MLAs. Two observations about that: I think it would be difficult in the sense that the MLAs might see themselves as having a status that would require them to have roughly double the number of MLCs, which is kind of the pattern in most parliaments in Australia where there are two Houses. That's the first observation. The second one is, yes, you could introduce MMP, and it is used in some bicameral parliaments like Germany. But in the New Zealand case it was introduced to deal with the unicameral parliament where the upper House had been abolished decades before.

It was to deal with the fact that under the electoral system governments won huge majorities—think Queensland—and then there was relatively little brake on them if they wanted to put in place their mandate, which, as two of my students argued, is as it should be. The people decide, the government gets in, it has its majority in the single House and off it goes, and then, four years later or three years later you have another chance to throw them out or confirm them. I think the argument for MMP, proportionality, has less force in the lower House when you have such a proportional upper House. I think you really want to focus the Legislative Assembly's role on representation of geographic constituencies. Is that being done adequately now with 93? Perhaps, but I think there's a case that says that you can expand the number of MLAs to better represent the diversity of our large State.

AUDIENCE MEMBER: I noticed in your final proposal that you didn't mention again the Indigenous representation possibility. What are the difficulties? There are obvious difficulties, of course, but will you talk about that a bit more?

Professor RODNEY SMITH: Yes, sure. It is difficult. There are a number of possibilities here. One is the South Australian/ACT model, which is to effectively establish a Voice—an assembly for First Nations people that sits outside the current parliamentary structure and advises the Parliament and/or the Executive. That model is currently underway in South Australia. It's early days. It has been in place without much hoo-ha in the much smaller jurisdiction of the ACT. That's a possibility. It was a possibility that was being talked about before the failure of the referendum in 2023.

Another possibility that was talked about earlier—I believe there was a Legislative Council or joint committee that looked into this in around about 1998, from memory, in New South Wales. It concluded that there was no practical reason for establishing dedicated seats for First Nations peoples or Aboriginal people in New South Wales. But that's another possibility; you could introduce dedicated seats. I did think about this and thought it may be a bridge too far, but I'll cross that bridge now. One of the attractions, if you like the idea of dedicated seats for First Nations peoples in New South Wales, is that if you have more MLAs—I think you would do it in the Legislative Assembly, and you would do it for the reason that the electoral system is more amenable to that. Under the Legislative Assembly rules, electorates have to be roughly equal in terms of population.

One way of doing this would be to adopt New Zealand's approach, which would be to have an overlay of First Nations seats over the State, which would have the same number of electors in each electorate as for the general electorates. This would be easier to do with a larger Assembly because there are more seats, so each seat requires a lower population. From memory, the First Nations population of New South Wales is roughly 3 per cent to 4 per cent. If you think about 3 per cent to 4 per cent of seats, that gives you a few more seats to work with. Indigenous electors could choose, as in the system with the seven Māori seats in Aotearoa New Zealand, to be on the Māori roll or, in this case, the First Nations roll—or whatever they want to call it—or the general roll. So the number of seats would vary according to that. It's complicated, but it can be done. So that's another possibility.

There are arguments either way. I think one of the strongest arguments that Noel Pearson made for the Voice was that if you're a 3 per cent mouse—I'm using his words here—in other words, if you're 3 per cent of the population, you're always going to be stamped on by a 97 per cent elephant, or the rest of us who are immigrant settlers here in New South Wales. Again, the committee that looked into this in the late 1990s concluded—and from memory Meredith Burgmann chaired that committee—that dedicated seats, while they sound like a good idea, the impact of the occupants of those seats may well be dissipated in the broader relationships due to partisanship et cetera in the Chamber. But it's certainly worth considering. Thanks for raising it.

AUDIENCE MEMBER: I am a bit put off by the statistics you are looking at. You do not seem to mention that maybe we could slow down the growth of the number of people and then we will not need it. Otherwise, if you project those figures you have now to 100 years' time, you are going to need another two or three floors on top of this Parliament. Has anybody maybe contemplated that the population is expanding far too rapidly for us to have some sort of representation? It can't go on. I would point out that certainly by 1888, the parliaments of Sydney and Melbourne ranked in the top 5 per cent around the world, so whatever we were doing seemed to work pretty well. Now, as a self-funded retiree, I look at a lot of public servants on the teat and I do not hear you saying what the expense would be of adding these people and all of the people that would be with them. Surely it would be far better for us to try to slow our bloody population down and keep a better hold on it rather than this headlong run.

Professor RODNEY SMITH: That's a good comment. I am not projecting the population to grow. The population could be stable now, and I think the case for the increase in the number of parliamentarians for the current population, even if we hold it to what it is now, is a good one. There are limits. If you look at the Indian Parliament—I do not have these figures, but I did work them out for my students. They are on a slide somewhere on my computer. Each member of the Lok Sabha represents millions of people. How is that possible? One answer

is that India, like Australia, is a federation, so one response to the limits to population growth would be to divide States again. Wow! We are really talking about radical change now, aren't we? Or we could devolve more powers to councils. Again, that is not a happy argument in this sort of forum and context, given the longstanding antagonism between the State and local governments in New South Wales.

You are right, an increasing population does bring with it not just the challenges, which I am sure really lie behind your question, of sustainability et cetera, but also political challenges. That is certainly something that needs to be considered. But I would say that even if we froze the population now—what did Bob Carr famously say? "New South Wales is full." If we adopt that stance, there is still a case for increasing the number of parliamentarians, but I suspect that what also lies behind your argument is the size of government more generally, and you might want that reduced, in which case what I am saying is a bad idea for you.

AUDIENCE MEMBER: This is a similar question to one we had before but looking less at specific Indigenous seats and looking more generally at the increase in numbers to the Parliament. Do you think, just through the nature of there being more people representing the general population in New South Wales, that would increase representation of groups such as First Nations people, who have been historically under-represented as members of Parliament? I think there have only been two or three members of both the upper and lower House in New South Wales who have ever been First Nations people, which I think is one of the lowest around the country.

Professor RODNEY SMITH: You have kind of answered your own question. You cannot assume that it will naturally occur. Yes, the New South Wales Parliament does have a record of low representation by identified First Nations people. It is slightly higher than two or three, but it is not much higher, historically. I guess Linda Burney is the most well-known example of that. It does not happen automatically. If you think about the Australian Chinese community, that is another good example where it has not happened naturally.

There's a very large growth in the Chinese Australian community and the Indian Australian community. Will that be reflected in the Parliament? I don't think there's a natural process there. After all, women made up 50 per cent of the population in New South Wales for a long time before there was anywhere near parity. It has to be a deliberate effort. Now, parties can do that. Parties have taken the lead in increasing the gender balance in the Parliament, with varying degrees of success. But it doesn't happen naturally; someone has to do it. The parties can do it, or you can have mechanisms. There's a case for specific, dedicated seats, which rests not on diversity but indigeneity: First Nations status. That's why I think the focus on that is important, but it won't happen naturally. That is my observation from the historical record.

AUDIENCE MEMBER: Rodney, a point you made was that the committee system is central to the Council's ability to do its oversight role, and they're struggling to do that effectively because of the insufficient number of MPs. Therefore, the solution is to increase the number of MPs. What about alternative ways of bringing resources into the committee system without increasing the number of MPs? Perhaps experts of various types—guys with resources, training, expertise in the particular areas the committee is looking at, perhaps on a non-voting or sort of secondary level. Might that address the problem without needing to go to the people to have the number of MPs increased?

Professor RODNEY SMITH: I don't think I said the Legislative Council was doing a bad job; I think I meant that it wasn't doing perhaps the job that it could do. Yes, that's a good suggestion—but then, committees do that. They do draw on expertise. That's what all the submissions are and the expert witnesses and so on. But MLCs, or members of Parliament more broadly, ultimately have to take responsibility for the committee reports. They are responsible for them—they're the ones who produce the reports. You could certainly engage—there would be a number of ways of engaging the public, and the Legislative Council has moved in the direction of virtual committee hearings, committee hearings in the community, not expecting everyone to come down to Macquarie Street to appear in front of the committee. I think there was some translation into different languages in one or two committees.

Certainly experts are encouraged to participate in those committees. If you read the reports, their input is treated very seriously. You could expand that, as you're suggesting. Yes, that's a suggestion. But I think, ultimately, the Legislative Councillors have to be the ones. I think Mark Latham made this point pretty well yesterday. I know he's sometimes not taken as seriously as he might be, but I think it was a very serious point that it's the Legislative Councillors who ultimately have the responsibility to produce good reports and to ensure that the committees work effectively. They can certainly be helped by that outside expertise, but it would still be valuable to have more MLCs to share that work around.

The Hon. CHRIS RATH: Unfortunately, we have run out of time. Thank you to everyone who asked a question and contributed. Thank you again, Professor Smith, for a very insightful presentation and Q&A on our second day here.

Mr DAVID BLUNT: Thank you very much, Chris Rath and Rodney Smith, for our first provocation for the day.

DEMOCRACY 3.0: HOW WILL ARTIFICIAL INTELLIGENCE DRIVE OUR DEMOCRATIC FUTURE?

Dr CHRISTOPHER MAYES, Senior Lecturer in Philosophy, Deakin University

Mr RAJIT PUNHANI, Secretary, Rajya Sabha, via video

Mr DAVID BLUNT: To introduce our second provocation, I'd like to introduce Stephen Frappell. Stephen is Clerk Assistant, Procedure, in the Legislative Council, having previously led the committee office since 2018 and, prior to that, having worked across a range of positions in the Council and the Australian Senate. Please join me in welcoming Stephen Frappell.

Mr STEPHEN FRAPPELL: Good morning, everyone. I'm pleased to say that I may have a solution to Rodney's dilemma of how do we manage the LC's numbers, and that's simply to replace the LC with artificial intelligence, the topic of our next session today. It's my pleasure today to introduce Dr Christopher Mayes, who will be leading the presentation. After we hear from Dr Mayes, we are going to break and hear a video introducing developments in the upper House of the Indian Parliament—so a little diversion from the usual processes of the sessions.

But first we'll hear from Chris. Dr Mayes is a senior lecturer in philosophy and co-convenor of the Philosophy and History of Ideas research group at Deakin University. His research interests include political philosophy, history and the philosophy of emerging technologies, together with bioethics. Chris is the author of *The Biopolitics of Lifestyle: Foucault, Ethics and Healthy Choices* and also *Unsettling Food Politics: Agriculture, Dispossession and Sovereignty in Australia*. He also cohosts *Undisciplinarity*, a podcast that explores the history, ethics and politics of health. His work is supported by multiple National Health and Medical Research Council and Australian Research Council grants, including a current project on the ethics of AI and robotics in agriculture. I'm very interested to hear Chris's contribution on AI and the future of Parliament in New South Wales. Please join me in welcoming Dr Christopher Mayes to the stage.

Dr CHRISTOPHER MAYES: Thank you for the invitation. It's exciting to be here with you. I don't know whether I should make an apology for being a philosopher, but we tend to look at the trees, perhaps, rather than the forest—no, we look at the forest rather than the trees. In terms of the details of a parliamentary system, I will not be getting into those, but I will be looking forward to your insights as to how what I have to say may apply in that context. To start off, I will just explain this image to you. As I mentioned, I am doing this project on the ethics of robotics and AI in agriculture. This poor sheep is being subject to the prototype of an AI robot sheep shearer, developed through partly the CSIRO but also by another organisation down in Geelong whose name escapes me at the moment.

The reason I bring this up to start off with is that, when we think about AI and we think about technologies, yes, there is a global context but there is also a very specific spatial and place context. In the 1960s a grazier in south-west Western Australia who was sick of dealing with shearers and shearers unions in particular thought a great way to get rid of them would be to develop a robotic sheep shearing system. Fortunately for the sheep, it did not succeed, but this is an idea that is still around. UTS has been recently trying to develop a robotic sheep shearer. It's a kind of zombie idea that will never go away, but it has yet to prove successful. It's quite difficult to shear a sheep with a robot.

But we're not talking about sheep today; I'm going to be talking about AI and democracy. No doubt you have come across some of the concerns or you intuitively have concerns about how AI may be a threat or be undermining democracy, and here are just a few recent news stories. I had to change my slide as I was at Avalon Airport on the way out. *The Saturday Paper*, front page—Dutton has hired these two wonderkids who ran a disinformation campaign during Morrison's re-election, and Dutton has hired the same team. They are promising to use AI, and they've already used it in a number of other elections, to quickly generate memes—in their words, "boomer memes"—to incite particular emotional responses from segments of society and to cause some confusion and encourage disinformation. Some people talk about it as diluting the ecology of information. The UN has also raised concerns about the effects of artificial intelligence on democracies. During the Trump re-election there were a lot of news stories. There were also local ones, including from *The Canberra Times*: "Democracy in danger: AI a threat to Aussie elections".

But it's not just news stories. There are academics who are focused on and concerned about this. These are some of the resources that I'll be drawing on in this presentation. Mark Coeckelbergh's book *Why AI Undermines Democracy and What to Do About It*, for instance, is a key one in political philosophy. Ruha Benjamin is a sociologist of technology. I'll talk about her work a little bit more. A concern about these

technologies is that they are going to perpetuate already existing systemic biases. A number of journals have been running special issues on whether AI will undermine and end democracy.

It's helpful to think about this in the way that Ruha Benjamin frames AI and technology in relation to our society. She notes that in a lot of the media reporting, whether that's in news media or in television shows, there is a sort of dichotomy of AI being a saviour. There are some people who will say that AI is going to enable a direct democracy, for instance, where citizens are able to vote together and communicate together. I think AI Gore talked about this in the context of the internet in the early '90s, that this was going to be a new dawn of democratic participation.

Then others will talk about this being our end, our downfall, and that AI is the slayer. Ruha Benjamin notes that AI in robotics is either part of a future utopia, where societies are portrayed as peaceful, fair and ideal, or a dystopia. We can think of this in a lot of popular media. If you have seen the recent film *I Am Mother*, or *Blade Runner* or *Gattaca*, which is more about genetic engineering, these are societies where a small elite who are in control of a technology oppress the majority. This is the kind of fear that often comes up in these conversations. But Benjamin thinks that both these narratives—the slayer or the saviour—rest on the false and unhelpful premise that we as a society are passive in this situation, that we have no power over how these technologies are going to be used, and that AI is just going to be developed and there's a kind of inevitability to it being rolled out. This powerlessness in the face of technological advancement is sometimes called a technological imperative or technological determinism. So there's nothing really that we can do about it; it is going to be used.

The idea of a technological imperative is an important phrase and idea in the sociology of technology because it talks about the way that a technology is developed for a particular use. Sometimes you may have heard of in theatre the idea of Chekhov's gun, that if a gun appears in a play in act one, by the end of the play the gun is going to go off. Similarly, we can see this with technology in the way that when it is designed and developed in that early developmental phase, there is an intended use for how it is going to be designed. Technologies aren't neutral things. Hammers are designed to hit nails, and it's in the using of the hammer that we meet its use and its end. In another cinematic example, if you've seen *Oppenheimer*, towards the end after he's built the bomb, he's sitting in the office with the generals and they're talking about what to do with it. He's suggesting, "There could be alternative uses. Maybe we don't need to drop this bomb." But the purpose of the development of a bomb, from the start, is for a bomb to go off. So there is a concern about technological determinism in developing these tools. We've got these tools, so we are going to use them.

But Ruha Benjamin thinks that it doesn't have to be this way, so she develops this idea of "ustopias", which she draws from the science fiction author Margaret Atwood. She says that while utopias are the stuff of dreams and dystopias are the stuff of nightmares, "ustopias" are what we create when we are wide awake, and it's being wide awake together that we create the future that we want. Benjamin is using this idea to push back against technological determinism and technological control by a few. Part of what I am interested in is how deliberative forms of democracy, perhaps in the local context, can form small and larger coalitions to think about how technology is developed and how things like AI intersect with democracy, particularly to be able to wrest control of these technologies from big tech, in particular, and how they can be used for the social good. But is this itself a utopic dream? Is this possible? What mechanisms are in place to achieve this?

I will come back to that, but first this was going to be a series of "what is" questions. Philosophers like asking "what is" questions, but I will try to limit to a few. What is AI anyway? What exactly are we talking about? Broadly speaking, AI is an activity devoted to making machines intelligent; an intelligence of the quality that enables an entity to function appropriately and with foresight in its environment. Now, a few words are doing some heavy lifting in this definition, one of them being "to function appropriately". If we think about any form of intelligence, such as human intelligence, what is appropriate behaviour? Right now we are governed by a whole bunch of different social norms about what is and is not appropriate in this particular context. How do we know these things? A lot of it is through socialisation. We have gone to many different kinds of conferences and we know we are supposed to sit in a particular way. Having presented a few times, I know that I am supposed to do certain things, so there is a question of "How do we learn what is appropriate?"

Then there is this idea of foresight and the particular environment. How do we gain the knowledge to act in these environments? Particularly if we are going to think about machines having this kind of intelligence, that is a big question. What is intelligence? If we are going to think about artificial intelligence and reproducing intelligence, we may want to know what intelligence is. I have already mentioned a number of films. There is a documentary *Being in the World*, which I highly recommend. It is very interesting. It is with a philosopher, Hubert Dreyfus, who has done a lot of work around phenomenology, which is basically about skill acquisition. How do we come to know things? How do we come to be masters of something?

That documentary is looking at chefs and musicians. We heard about sailing before. How do we come to know how to do particular activities in a masterful and skilful way? Some of you may be masterful at cooking. In trying to explain that, is that simple rule following—you follow a recipe—or does a master chef not rely on a cookbook but just knows that certain ingredients are required? I like gardening. I would not dare say I am a master gardener, but something that is the bane of any gardener's existence is weeding. I also have a young child and I suggested that they should weed the garden, but then trying to explain to them the difference between a weed that you want removed and a plant that you want to stay requires a certain level of skill and know-how.

Coming back to artificial intelligence, there is this desire for what some people talk about as a general artificial intelligence or artificial general intelligence, which is the kind of intelligence we have. It is not domain specific. I will come to that in a moment. It is not mere calculation. A master chef—not referring at all to the television show—is not about mere calculation. One model that computer scientists and cognitive scientists have worked on in the past is that intelligence is calculation, and that we just happen to do it at a much faster level. But what Hubert Dreyfus and other philosophers of intelligence talk about is that it is not just that we can calculate quickly, but that when we master a task we stop calculating; we come to embody a particular form of knowledge.

This can involve attunement to an environment—attunement to an emotional environment as well as a physical environment—and phronesis, good judgement or practical wisdom. This is something that Aristotle talked about. With the sailing example, Plato also talked about how the role of a good governor or a good politician was like a sailor of a ship—that there are so many different things that are being interacted with that require good judgement. You can't write it all in a rule book; you need to have experience that comes with common sense and know-how. Can machines do these things? That is the desire; that is the hope. A lot of the PR and the press is all about this artificial general intelligence—"This is going to be the Terminator. This is going to be the super-smart robot that achieves consciousness." I would say—talk about being provocative for some audiences—that we're a long way off that. We're not near there.

What are we dealing with a lot is narrow AI or domain-specific AI. Here I've got Google's predictive text for its search engine. You start typing something in and Google is going to predict what's next, based on your own search history and based on other people's search histories. "Will AI ... " And then lots of people are concerned that it's going to take over the world. For the lawyers out there, I think your jobs are under threat—accountants as well. I'm glad to see philosophers aren't up there just yet. This would be an example of narrow AI, so a very specific domain in which predictive text or algorithmic thinking is able to model a certain kind of intelligence.

It's similar with GPS and a whole bunch of different activities that we encounter daily. Jünger and other philosophers and political scientists working in this area talk about the expectations of AI's supposed general ability to address tasks or form decisions across multiple domains—so that's artificial general intelligence—extrapolated from AI's very relative success in the data-driven completion of specific tasks in specific domains. That is a category error. What they're talking about here as a category error is that we use narrow AI and we use it very successfully. It's very competent and often very useful in our daily lives, but it's a category error to then suggest that from that narrow AI we can get to this artificial general intelligence.

Today what I'm mainly interested in is applications for narrow AI in politics and democracy—and there are a lot. That's the main thing that we'll be looking at. Some of the concerns that come up with artificial intelligence and democracy are around disinformation and deepfakes, and perpetuating inequalities and biases. One of the things about ChatGPT or any of those sorts of AIs that you may have been using or encountered is that, as data scientists will say, it's all as good as the source information that it's got and the datasets that it's using. If it's using junk data, you'll get junk output. This raises a whole bunch of questions about where the data is coming from. A lot of it is just through the internet and scouring the internet. There will be more specific uses that would be interesting to have conversations about in this realm. You could train an AI on all the *Hansard* that has been digitised. You could have conversations with past parliamentarians, perhaps, if that's something you would enjoy doing.

If there are inequalities and biases in the data, then that's going to come out in the outputs. There's concern that it could erode the integrity of democratic institutions, particularly around things like elections. There's an anxiety about that. But, again, I think it's important that we think about the different contexts. There is a lot of context about the integrity of US elections, but they don't have something like the Australian Electoral Commission or an independent electoral body in the same way. Again, it is jurisdictional and domain specific.

Then there is the manipulation of the public, encouraging social division, information bubbles and digital astroturfing. You may be familiar with the astroturfing idea. If you're going to suggest that 150 people in this particular community are very concerned about a particular issue, you and your friends can write a bunch of letters to suggest that there are more people concerned about this than there actually are. Using AI, you could write

probably a couple of thousand letters in a day, if not more, and you could have them generated and make them all sound different. Does that change some of the representational relationship? A big one, which I am not going to be able to talk about really today but is something that overshadows all of this conversation, is the asymmetrical power relations, particularly with big tech, particularly the major companies like metaverse, and the way that they control globally so much of the technological and digital infrastructures.

There are some benefits. We will be hearing in the video about some benefits that have been used. One benefit is precision governance. "Precision" is a word—there is precision agriculture or precision medicine—and through the development of technologies there is this idea that we can develop, in this context, more precise and responsive policies. We could get more representative data. There are some really great examples of the use of different AI and digital technologies in Taiwan, one of which is the way that we can do polling of people. We might be able to poll a few thousand people and you will primarily get quantitative information: "Yes, I like this thing; no, I don't like that thing." With some AI chatbots you can have qualitative conversations with publics and synthesise the results. There could be a future where you could get 100,000 qualitative interviews with publics about what they think about a gas plant coming in down the road and AI would be able to thematise the different sorts of responses. There is that possibility and, as I mentioned before, direct democracy implications. But there are other benefits; these are just a few.

What I want to suggest is that both the positive and negative uses of AI have the potential to undermine the epistemic conditions for democratic decision-making as we know it. That is my interest or concern here. It is how do we decide things. What knowledge do we need to make decisions, whether collectively or within particular democratic institutions? I think that AI is changing the way that we will do that because AI gives us speed, scope and a new kind of knowledge. But is that knowledge—and this is the concern—sufficient kind of knowledge that is going to be produced by AI for democratic decision-making?

I am sure we are all familiar enough with various types of democracy. But I want to emphasise, because a lot of the concern is around how this is going to affect elections in particular, that to safeguard against the influences of AI, we need to think about democracy, not in a thin conception but a richer and deeper conception. Particularly, I am interested in things like deliberative democracy as well as more radical, agonistic forms of democracy. We need to think of democracy as more than elections, more than representation and more than majority rule. The talk given by Dr Phelps yesterday was a good example of the way democracy is being done through the crossbench and democratic decision-making. That goes against the idea that maybe is popular of majority rule, or the idea that there is a mandate from the party that was voted in, but that democracy continues after elections and that publics, as well as other politicians, can be involved in the policy-making and ruling after an election.

Again, specific—as specific as a philosopher can be—democratic institutions are a key safeguard. We have already heard, both this morning and yesterday, that there aren't ideal democracies and that AI is coming into different democracies that have different weaknesses and different exposures. In many respects, I don't think we should fixate so much on the AI question, but what is the status of our democracies and what are the weak points of our democracies and the vulnerabilities of our democracies that we need to be mindful of—one being, as the Australian Electoral Commissioner has talked about, maintaining an independent and strong Electoral Commission. There are concerns around the information ecosystem, as Tom Rogers refers to it, and how this could affect things. Likewise, as I'm sure you've seen, the ABC chair, Kim Williams, has been in the media lately talking about "the waters of misinformation and disinformation" on the rise and the importance of a fully and properly funded public broadcaster for maintaining a sense of public communication that foment a common good.

Finally, the other big one for democracy, I would say, is public education—the importance of that as a way for different publics and communities to come together. In what is arguably the segregated education we have, between private and public, having a public education system that is adequately funded serves not only equal access but other people actually getting to interact with each other. We've talked a little bit about the divide between the city and the rural and regional, but also just within cities and within those communities, the possibility to interact with somebody who may be coming from a different socio-economic background is a valuable democratic institution and process.

That is all just to say that I think democracy depends on and contributes to a common world. One of the concerns with AI is that it is eroding the conditions of possibility for this common world. I will change this slide in a minute; I am not sure why it keeps on moving like that, but eventually we will get to Australia. Australia might not exist, according to this AI. One of the concerns with AI is that that there is this breaking-off into these bubbles that may undermine the epistemic conditions for democratic decision-making—that is, the things that we know, the things that are important for us to know collectively to make decisions.

Why do AI systems concern us? I've already outlined some of the reasons. But I would suggest that one of the underlying things that makes us, or makes me, uncomfortable with automated systems—whether we're talking about these bureaucratic systems, self-driving cars, robotic police and many other examples—is there's not a clear person who is making the decision. There's not a clear human who you can go to and appeal the decision that's been made. The classic example is *2001: A Space Odyssey* and Dave appealing to HAL to open up the pod bay doors. People who deal with government systems—or university systems, if you happen to be in that area—will often say there is not a clear person to respond to, nobody who is responsible for the decisions that govern our lives, nobody who is accountable, nobody who takes the blame when things go wrong and nobody who has the authority to reverse a decision. It's like when you get those emails saying, "Please do not reply"—and they're the kinds of emails you really want to reply to!

Moving ahead, the "rule of nobody" is something that the political theorist Hannah Arendt described in the 1970s in talking about the origins of totalitarianism and the violence of bureaucracy. This is when AI was developing in MIT and different university labs. She said:

In a fully developed bureaucracy there is nobody left with whom one can argue, to whom one can present grievances, on whom the pressures of power can be exerted. Bureaucracy is the form of government in which everybody is deprived of political freedom, of the power to act; for the rule by Nobody is not no-rule, and where all are equally powerless, we have a tyranny without a tyrant.

I am not going to show you the sketch from *Little Britain*, but "computer says no" resonates with us because we've experienced it in so many ways. The concern is that with AI, there won't even be a person there who says "computer says no". There will be nobody there to argue with or appeal to. There will be no person and no-one, yet we will be with a decision that dramatically affects our lives. For Arendt, this was a big problem around the deprivation of political freedom—the power to act. This is somebody who knew that extreme deprivation of freedom, having escaped Nazi Germany. In our time, 50 years after Arendt wrote these words, we are on the cusp, I think, of a lot of AI-driven bureaucracies. Are we going to be under the tyrannical rule of nobody—a tyranny without a tyrant—or are there ways that we can maintain our freedom and power to act? I think, in some ways, we're not talking about that off-in-the-distance future but about things that have already happened. A concern with AI is not that we'll be oppressed or hunted down by violent robots, or even that a techno tyrant will overthrow our democracy using memes and deepfakes, but that it takes the rule of nobody several steps further and that, then, there really is no-one who is accountable or responsible.

In the recent royal commission into Robodebt, there were legal breaches that occurred, but to reach 470,000 people required these automated systems that enabled that. It created those conditions of possibility. As Rick Morton said, somebody somewhere should have said something, but was there somebody in those systems? Yes, we know there were people who supposedly had authority over them, but then when people were receiving those calls, there wasn't a lot to do. One of the recommendations coming out of the report was the reform of legislation in implementation regulation. They are saying about automated decision-making that if it's implemented, there should be a clear path for those affected by decisions to seek review and so on. I won't go into the details there, but that's one of the recommendations to come out of the report—that we can't have automated decision-making without the possibility for review.

So what can we do? Philosophers and ethicists working around automation and military technologies talk about the importance of meaningful human control. If we are going to have AI military systems, this is one of the things that they say is crucial. At many steps along the way, there is a human being who knows the process that has gone on so it's not black box AI, which is AI where there is an unclear path as to how decisions are made. There's a human being who can understand how the AI reached its decision and there's a human being who takes responsibility for that decision.

As for other steps towards an "ustopia", looking to the example of Taiwan and particularly Audrey Tang and their work, she was the first Minister for Digital Affairs. We were talking about creating new portfolios. I think having a ministry for digital affairs would be a good step forward. Again, democracy is more than elections, and the concern with AI is more than voter manipulation. There are things like democratising technological development and regulation, and new deliberative institutions to oversee digital technologies. One idea for that would be some mini publics made up of lay people as well as technical experts. One fear is that we go into some form of technocracy where it's only people who are computer scientists who know the ins and outs of AI. Yes, they should be part of the discussion, but we also want people who are lay members as well as politicians, who are there with the phronesis—the practical wisdom of how we want to live our lives together.

There is interdisciplinary education, particularly increasing digital literacy, formally as well as in public—within schools but also in public pedagogies. One thing they talk about is pre-bunking. If we know that deepfakes and misinformation are coming, we can teach publics about how to spot deepfakes, if that's the concern. Then there is facilitating the creation of a common world via communication. It's not just about controlling AI, which I think a lot of the conversation is about, even in universities. That's about policing the use of ChatGPT.

It's not about control but about using them towards a common good. One example is rewarding bridge building. In some of the AI systems that they have in Taiwan, instead of people who say polemic things getting upvoted, it's people who say things that go towards the common good that are shared more widely.

In finishing and, again, thinking of some of the work that has come out of Taiwan around this, I think about the quote, "To those who live under tyranny, democracy is an ideal worth fighting for, yet democracy-born citizens who are used to its benefits sometimes barely acknowledge its existence." Not being complacent with our democracy, our democratic institutions and the norms that govern them is a key thing that we need to be wary and mindful of, not just with AI but with a host of things.

Mr STEPHEN FRAPPELL: Chris, thank you very much for that thought-provoking discussion. I didn't see amongst the top 10 search results "Will AI replace parliamentarians?" Potentially, we're a little way off that. On behalf of the staff of the Legislative Council, if AI could perhaps start writing our 200-page committee reports or our minutes in the evening, that would certainly be a step forward from our point of view. It is a segue to our presentation online.

Last month, the New South Wales Parliament was very pleased to host the sixty-seventh Commonwealth Parliamentary Conference here in Sydney, which brought together 700 MPs from across the Commonwealth. One of the participants that spoke at the annual Society of Clerks at the Table Conference, which was a subset of the broader Commonwealth Parliamentary Conference, was Rajit Punhani. He is the Secretary or Clerk of the Rajya Sabha, which is the upper House of the Indian national Parliament. Rajit spoke to us about the groundbreaking use of AI by the Indian Parliament, including in the instant translation of parliamentary proceedings into eight national languages which are used across India and the broadcasting of those proceedings to a potential audience of up to 1.4 billion people in India in real time. It seems to be a pretty cutting-edge example of the practical way in which AI can benefit the parliamentary environment. It is being embraced at the moment in India and soon to be implemented, as we understand it. We have a 10-minute video presentation where Rajit outlined what is being done, and so we will go to that before proceeding to questions.

Mr RAJIT PUNHANI: I will start my presentation on the digital transformation of legislative processes. Thank you, David, for inviting me for this presentation. We'll go and we'll travel along the journey of this digital transformation. This is in very broad categories, what we have done for the digital transformation initiatives. We have the Digital Sansad project. Sansad in Hindi means "parliament", so it is basically the digital parliament project, which we have divided into two phases. Phase one involves that—earlier we had more than 16 different websites, so if any member or a member of the public wanted to go and see details of the parliament, they would have to go to 16 different websites. We have integrated them and we've made them multilingual also, so now it's available in many, many languages. We have in India about 22 official languages, besides many other languages.

Phase two, which is yet to begin, will be focused on the development of the software for the functioning of the House and mainly on verbatim reporting. Right now, like I think in most parliaments, when the member of Parliament is speaking, we have reporters who note down what the member is speaking. But in due course, once this phase two is successfully complete, the AI will automatically transcribe whatever the person is speaking with 100 per cent accuracy and it will become like verbatim reporting. Then we have the digital transformation project, which includes members' services, House operations, committee proceedings, communication to the ministries—so, for example, when there is a question raised by an honourable member of Parliament, then the question is sent to the ministry and the ministry with the approval of the Minister replies to that question. That also now is online, so the moment the member asks the question, it will be transmitted online on a real-time basis to the ministry and the ministry can then reply.

Then we have the secretariat services because there are a lot of us who are part of the secretariat, and we service the functioning of the Parliament. There are many secretariat services, including our salaries, our travelling allowances and various other allowances, which also all are online. Under this project, we have also digitised all our old records. So far, over four million paper records have been digitised, so now they are accessible online. AI-based translation is in process. As of date, we are now starting with 10 languages, which are now translated manually by our House translators and the members in the House can listen to it through their headphones. That is also now relayed on our YouTube channel in 10 languages. The aim is to do it in all the 22 official languages that we have in our schedule of our constitution.

Then we have a video library project, so all the old videos of members of Parliament, their speeches, their questions that they've asked, the Minister who has replied, the Presiding Officers, all of them now have been recorded and they're accessible to the public in a video library. This is just a screenshot of how it functions. You have the member of Parliament. He has a login ID. He has a password.

If you're a guest user, then you also have a provision of an OTP. An OTP will go to your mobile phone. Another important thing is that if you have your mobile phone you can also log in with the camera, scanning your QR code. These are the various parliamentary documents. I think most of you would be familiar with it. We have the daily business. That includes presentation by the Ministers of various reports. The standing committees or the various committees, they have prepared various reports which they also table on the floor of the House. The important thing is that we have AI-based language translation in 10-plus languages, as I mentioned earlier.

Besides that, we also have verbatim proceedings, as I explained earlier, and whether it is by the member of Parliament or it is by the secretariat, in terms of bulletins that are issued, they are now all issued online and are available on the portal. Paperless is just in the initial part. We have all our memorandum of business online and you also have various search facilities and various AI to make the functioning of Parliament more smooth. Each member of Parliament now has on his table a particular tablet. On that tablet, those documents which he has requested to see are all available. We have a dashboard, also, where he can see where all the other members of Parliament are sitting. Or if they want to make an intervention—even voting and even the marking of attendance, we are doing through the tablets.

One crucial part of this digital transformation is the capacity building and familiarisation of the members of Parliament, because they are the main users and they are the main stakeholders. It is important that we have various workshops for the members, as well as their staff, because a lot of the assistance is provided by the staff of the member of Parliament. So now all notices, whether it is for raising questions, whether it is a short duration discussion, whether it is a private member's bill, are made through the portal online. Once submitted, the notices are online processed by the secretariat and sent to the various divisions. The divisions give their inputs and feedback. It is then made available back onto the dashboard or onto the portal, so the member can access what are the inputs that have been received from the ministry or from the other divisions of the secretariat.

The software also has an advanced search function, so if I want to know what has been said on school education in the past 20 years, I just have to type the search words and all the speeches, all the questions asked, all the replies of the Minister will all be available to the member of Parliament. Another important aspect is that after the introduction of this member portal and this e-notices provision we have seen a quantum jump in the number of notices we have received. Earlier, there were problems in format. The person would have to take a printout and give it to the secretariat. Now it is very, very easy. We have templates and the member can easily access and fill in those templates, so notices received from the members of Parliament have gone up more than double.

Translation is one major project in itself. This is being used by not only the secretariat and the members but also our Parliament TV channel, Sansad TV, which collates live proceedings. So now even a member of the public who is sitting in some remote corner in eastern India can listen to the proceedings of the Parliament in his own language. Up to now we have all the previous debates, all the agenda files fed into the database. Currently, it is available in 10 languages, but the aim is to do it in 22 languages. For this, now we need not rely on manual translation; we are developing a software which will automatically translate it into the diverse languages of India.

These are the steps in this project. One is, obviously, the content generation. This would be debates, questions and answers. After that, it is fed into the AI platform. Then the AI platform converts it to the target language. Then the output is given. As of now, we do not have 100 per cent accuracy, but it is around 85 per cent. That is why we are not able to use it fully. It is in more of a trial stage. But once the machine reaches 100 per cent accuracy, then we will use it extensively. What we do now is, because it's at 85 per cent accuracy, we can manually vet it after that. The manually vetted content is then uploaded on our website. This data is then fed back into the platform. The machine will only learn when the correct data is put back into the machine, so that next time it does not make the same mistakes and the accuracy increases.

This is our accuracy, which has improved over the years. We started in July 2023. We are hopefully going to touch 90 per cent by the end of December, and hopefully by early next year we should achieve 100 per cent. We also now have the AI retrieval of all the audiovisual footage. Suppose I want to listen to a video of the previous Prime Minister, I just have to search this thing and the AI will take all the speeches that he has given date-wise and subject-wise. So far we have almost 14,000 hours of audiovisual content digitised, and it is now available on the video portal. The journey ahead is that we will be reaching 18,000-plus.

Right now, whatever is currently going on in Parliament, we are automatically putting that footage onto our database. I think all of you also would be getting requests from members of Parliament that they want a recording of their speech or their "byte" that they have given on the floor of the House. Now it is very easy for us. We have it whenever a member of Parliament requests, "I want a speech that I gave in 2021 on school education." He himself can go to the portal and access it. This is how it works; this is just a screenshot. So far we have uploaded 14,000 videos, and the target is that we will complete 18,000 videos very soon. Thank you very much.

This is, in brief, our journey of digital transformation. I am ready to answer any queries that you have or any clarifications that you may seek. Thank you very much and have a good day.

Mr STEPHEN FRAPPELL: Ladies and gentlemen, we have 10 minutes available before we head off to morning tea. I invite questions for Chris.

AUDIENCE MEMBER: Since the inclusion of Elon Musk into the American government, he has started to aggressively attack democratic institutions and democracy worldwide, endorsing policies which undermine whole democratic systems. Is the inclusion of Musk into the US government the start of aggressive attacks via AI against whole democratic systems?

Dr CHRISTOPHER MAYES: I would say that it would seem to be, yes. I'm an observer of US politics, so I don't have any expert insight into that. But there have been historical precedents, as well, of bringing people like Musk into politics with this idea of "private business is more efficient than government and social services". I think that is part of this broader idea. In the whole, the other thing with AI in general—just while I'm talking about this—is there's a certain shininess, a certain smoothness and a certain greenness, if you like, or environmental sustainability, as things are up in the cloud. Kate Crawford does a lot of work on the way that it's just as dependent on fossil fuels as many other kinds of industries—just in thinking about the storage of all of this kind of information. That's a side point. But to your point, yes, I do think there is a sense that big tech will do things efficiently and smoothly, but big tech is also attached to the earth and mining, and physical storage space is required as well.

AUDIENCE MEMBER: Thank you for that "nobody is responsible" line. With Robodebt, despite the report, nobody is responsible. The British legal system is unable to deal with the conviction and charging of post office managers for mistakes that the computer made. The computer made them criminals. It has been going on for more than 10 years now. It seems that one of the problems that is coming out of that is our legal system's inability to deal with this problem of responsibility. Have you got any ideas on that?

Dr CHRISTOPHER MAYES: Only just to add that, yes, it would be good to have a legal scholar who is looking at this because, in a whole range of areas, there are a lot of legal questions. I even have a colleague who is working on what is referred to as "digital remains", and that is a legal minefield as well. Who controls your digital data after you die, like your Facebook accounts and those sorts of things? Can your relative turn it into a chatbot if they so choose, or does someone have control over that? I do not have an answer, I am sorry, other than that, yes, there are a lot of legal questions around who is legally culpable for these decisions. That is just as much a minefield as who is morally culpable for them as well.

AUDIENCE MEMBER: One part of your central thesis is about an existing dereliction of some of our informed responsibilities when it comes to decision-making as well as audit and oversight. In our Australian jurisdiction particularly, where do you feel like we are most under-serving our current responsibilities at the moment?

Dr CHRISTOPHER MAYES: I guess my opinion will reflect my research interests and what I tend to focus on. I think the public norm of things like trust and integrity is something that has been eroded for the past 30 to 40 years. The philosopher Raimond Gaita has talked about this before; I am certainly not unique in making this comment about taking responsibility and ownership of decisions like Robodebt. We have had misinformation and disinformation in our political system since Federation, and AI presents a new opportunity for doing that. I think that if we are able to change the nature of public discourse and expectations about people to take responsibility and to speak truthfully, then that will go some way to shifting that. It is not going to solve all of these problems.

AUDIENCE MEMBER: Just a thought on that—it is a classical frame, but it kind of runs contrary to some ideas people have about free speech and who should be the ultimate arbiter when it comes to truthfulness and fact-finding. Do you have an opinion about who is best placed or how that responsibility should be delegated?

Dr CHRISTOPHER MAYES: Yes. Again, in talking about the norms of truthfulness, integrity and taking responsibility, it is not about curtailing people's speech but making them have consequences for false speech. You can say—to use an old but no doubt still potentially controversial example—that there should be consequences for pushing the line of children being thrown overboard, but there wasn't. I think we live in a society where those sorts of things can continue to perpetuate. Or there should be a consequence for saying that migrants are eating their cats and dogs. That is obviously not an example from Australia, but we are in a situation where lack of truthfulness is not met with any kind of significant consequences.

AUDIENCE MEMBER: How do we hold foreign, international players accountable when a lot of these sources of misinformation are coming from overseas?

Dr CHRISTOPHER MAYES: No, we have plenty of our own misinformation and disinformation coming from within Australia, so I think we should start with that before worrying too much about overseas.

AUDIENCE MEMBER: Thanks, Chris. Disinformation is one problem, but information itself is also potentially a problem. I remember all of the discourse a few years back, which you hear less of now, about focus-group-driven government and poll-driven government, which can have accurate information but, in the absence of moral leadership and political creativity, can actually lead to bad government. I wonder if what you've discussed today is in some ways also a continuation of that set of problems of design, and it does bear on that notion of no-one being in charge, really, in a way. It's the polls, it's the focus groups that are kind of driving things, not political leadership, not deliberation.

Dr CHRISTOPHER MAYES: Definitely. Yes, that's exactly what I was saying with concern around the positive uses of AI. I think we could end up in a future of everything being data-driven precision, deliberative through these AI systems, but no political leadership. If you're in a context where the White Australia policy is accepted by everybody, you've got no-one who is going to take your leadership out of that because the polling will just reflect what the population thinks, and sometimes the population is very wrong.

AUDIENCE MEMBER: Dr Mayes, you talked about the rule of nobody and that AI can lead to people becoming powerless. You've written about biopolitics before. I wonder if you're familiar with the work of Byung-Chul Han on psychopolitics and how he's talked about social media and AI becoming this way that people get so much freedom that in the end they're stripped of that power—it's just this facade of power that they have. I wonder what consequence you think that will have on democracy, that excess of freedom and the consequent loss of power.

Dr CHRISTOPHER MAYES: No, I haven't heard of that concept, but I'll be interested to follow that up with you. There are similar dynamics, I guess. The idea that you can just scream into the void, so to speak, or write 100 Facebook posts to your friends expressing how frustrated you are—but maybe you should write a letter to your politician, get out there in a demonstration or go towards some kind of community local activism, or many other opportunities for action. It provides that easy outlet, and maybe a bit of a dopamine hit too.

Mr STEPHEN FRAPPELL: Ladies and gentlemen, morning tea awaits. David is going to say a few words. I ask you all to thank Dr Christopher Mayes in the usual way.

Mr DAVID BLUNT: Thank you, Stephen and Chris. That was a really fascinating stuff. We are about to break for morning tea. Please be back here by 11.20 a.m. for our next session, which will be equally informative. As you go out into the foyer where the various booklets are available, you might want to collect an additional booklet which is about the exhibition that is upstairs. Make sure you take some time, if you haven't already done so, to walk around and view the whole of the exhibition. You're welcome to take away a booklet so that you can enjoy it in memory as well.

IMAGINING THE FUTURE OF PARLIAMENT AND DEMOCRACY IN THE ASIA PACIFIC

Ms NAUREEN CHOWDHURY, Director, Communications and Engagement, New South Wales Legislative Council

Mr MIHAI SORA, Director, Pacific Islands Program, Lowy Institute

Lord FATAFEHI FAKAFĀNUA, Lord of the Realm and Speaker of the Legislative Assembly of Tonga, via videoconference,

Ms JENELLE MOORE [Usher of the Black Rod]: Welcome back, everybody. I hope you had a chance to enjoy our exhibition upstairs over morning tea. To introduce our next panel, it is my pleasure to introduce my colleague, Naureen Chowdhury. Naureen is the Director, Communications and Engagement in the Legislative Council, who oversees communications for the department, including social media, and has led the promotion of the very extensive program of bicentenary events and activities we have enjoyed this year, including this conference. Prior to joining the Council, Naureen worked across both the private and public sectors here in Australia and over several years in the UK. Please join me in welcoming Naureen to the stage.

Ms NAUREEN CHOWDHURY: Our next panel features two leading voices on parliamentary democracy in the Asia-Pacific region. Relations between the Parliament of New South Wales and the Asia Pacific are of great importance. A key initiative is the parliamentary twinning program. The Parliament of New South Wales is twinned with the National Parliament of the Solomon Islands and the Bougainville House of Representatives. This program allows the parliaments involved to strengthen their relations and also to learn from each other. The panel will look into the evolving political landscape more broadly in the Asia-Pacific region. I have the pleasure to introduce Mihai Sora, Director of the Pacific Islands Program at the Lowy Institute, and Lord Fakafānuā, Speaker of the Legislative Assembly of Tonga.

Mihai Sora is Director of the Pacific Islands Program at the Lowy Institute, a program that has a political research focus on contemporary challenges facing the Pacific Islands region. These challenges include geostrategic competition, sustainable economic development, governance and leadership. Mihai's research focus is on regional dynamics and the roles of the United States, China and Australia in the Pacific. His analysis has appeared in publications such as the *Australian Financial Review*, *The Australian*, *The Guardian* and *The Interpreter*, as well as several major international outlets. Before joining the Lowy Institute, Mihai was an Australian diplomat with postings to the Solomon Islands and Indonesia, as well as short-term deployments throughout the Pacific.

Fatafehi Fakafānuā is a Tongan politician, Lord of the Realm and the Speaker of the Tongan Legislative Assembly. He is the eighth Lord Fakafānuā. At age 24 he became one of the youngest members of Parliament in Tongan history, and at age 27 Lord Fakafānuā assumed the role of Speaker of the Parliament as the youngest ever elected by the Parliament to that office in Tonga and, at the time, the youngest Speaker in the world. Over the course of his political career, Lord Fakafānuā has been engaged with monumental changes in the Tongan Parliament, including presiding over major political reform and passionately advocating for greater representation of women and youth in Parliament. In 2014 Lord Fakafānuā took a break from politics to pursue further studies but since then he has resumed his role as the incumbent Speaker of the Parliament after being re-elected in 2017 and subsequently in 2021. Please join me in welcoming Mihai Sora and Lord Fakafānuā.

Mr MIHAI SORA: Thank you very much. Good morning, everyone. My name is Mihai and I am from the Lowy Institute here in Sydney. Let me begin by acknowledging the traditional custodians of the land on which we meet today, the Gadigal people of the Eora nation. I wish to pay my respects to Elders past and present and I extend that respect to Aboriginal and Torres Strait Islander peoples here and online today as we explore the themes of democracy, self-determination and political representation in our near region. The Lowy Institute is an independent international relations think tank. We're just down the road. Our aim is to understand developments in our region and also the global forces shaping international politics. There's a lot going on, especially for December. Let me start by thanking you for this opportunity to reflect on the future of democracy in the Pacific. I look forward to your questions after both of our speakers present their remarks.

If we take this moment today as a snapshot and look across the Pacific, we can see very dynamic and diverse democratic systems across the various countries. In Tonga, yesterday the Prime Minister resigned ahead of a motion of no confidence. My esteemed co-panellist may wish to reflect on this in his remarks later. In the Solomon Islands, the opposition lodged a motion of no confidence in incumbent Prime Minister Jeremiah Manele some eight months into his term, which may be debated this week.

In Vanuatu, the Parliament was dissolved last month. We may see an election in January, although the dissolution itself has been challenged in the courts. New Caledonia, a French territory, is still in the throes of managing its journey of self-determination amid conflicting political forces and will be impacted by the French Prime Minister resigning after a motion of no confidence against him in Paris. In Papua New Guinea, the Autonomous Bougainville Government continues its agenda to achieve political independence through a process agreed at the signing of the Bougainville Peace Agreement in 2001. Aside from this, there are ongoing discussions of political reform in Papua New Guinea seeking to balance political stability with Executive accountability and political freedoms.

In the past 12 months we've seen elections across the Pacific, including in Palau, Kiribati, Tuvalu and the Solomon Islands. As we consider the pressures shaping governance in the region, it's clear that Pacific democracies stand at a crossroads. This is not a story of struggle but a story of resilience—a story of how Pacific nations navigate challenges that are deeply global but also distinctly local. Today I want to explore the complex web of forces influencing the region's democracies and offer some thoughts on what these trends might mean for the future of democracy in the Pacific.

Let's take a look at the pressures facing Pacific democracies. Geopolitical pressures—the Pacific is at the heart of intensifying great power competition. This is something that I write and speak about quite often, so I'm very happy to go into that in the Q&A. This dynamic is profoundly affecting how governance is evolving in the region. Countries like China and the United States, and traditional partners like Australia and New Zealand, are vying for influence, often through aid, infrastructure projects, military agreements, support to local media and even sports agreements. While these relationships bring economic opportunities, they also raise questions about sovereignty and the long-term implications of foreign dependence. Pacific nations face difficult choices about how to balance competing interests while preserving their autonomy in the context of great developmental and economic need.

I will give two very recent examples. One is a treaty that Australia signed with the tiny nation of Nauru earlier this week. In essence, this is a deal that establishes a form of shared sovereignty over some aspects of Nauru's foreign and defence policy in exchange for support for Nauru's economic viability. The Falepili Union that Australia signed with Tuvalu is a deal where sovereignty is shared in exchange for Tuvalu's existential viability due to the impacts of climate change. These are small Pacific countries but the political and legal consequences of these deals are quite significant. This geopolitical environment risks fragmenting regional solidarity. Pacific nations find themselves pulled between pro-Western and pro-China political forces, and this complicates their efforts to address shared regional challenges like climate change and economic recovery.

Economic pressures—democracy thrives when economic systems provide stability and opportunity, but many Pacific economies remain vulnerable. Reliance on sectors such as tourism, fisheries and remittances from overseas labour leaves Pacific nations exposed to external shocks. The COVID-19 pandemic demonstrated how quickly economic disruptions can strain public services and erode trust in governments. Debt dependency—some Pacific nations are heavily indebted to China but also more recently to Australia and to multilateral development banks through infrastructure loans, raising concerns about fiscal sustainability and sovereignty. Debt distress can undermine government credibility and limit policy options for addressing pressing social and environmental needs.

Climate change is not just an environmental issue; it is fundamentally reshaping governance across the Pacific. Rising sea levels and extreme weather events are already displacing communities, creating governance challenges around land tenure, resource allocation and migration. These disruptions will test the capacity of governments to respond equitably and sustainably. As arable land and freshwater sources become scarcer, internal conflicts over resource distribution will intensify, challenging democratic processes and social cohesion.

With societal and technological shifts, Pacific societies are experiencing rapid change, bringing both opportunities and risks for democracy. The migration of people from rural to urban areas, a dynamic that has been going on for a few decades but is accelerating, is changing the social fabric of Pacific nations. Urbanisation brings rising inequality, with urban elites wielding disproportionate political and economic power while rural communities risk marginalisation. This creates tensions within communities and also strains traditional and cultural norms.

With digital connectivity, increased internet access rolling out across the Pacific through subsea cables, low Earth orbit satellites and greater internal access to digital services, there have been increased opportunities for civic engagement. But Pacific communities are now more exposed than ever to threats from cybercriminals and foreign governments engaging in misinformation, online scams and manipulation. Challenges from cyber risks and threats to online safety can exacerbate community polarisation, an issue that is often debated with respect to domestic social cohesion in Australia, and undermine trust in democratic institutions.

Many Pacific nations have rapidly growing youth populations, creating both a challenge and an opportunity. You might see a recurring theme here, which is that everything is a double-edged sword or a two-sided issue. If governance systems fail to provide education, jobs and political representation, youth frustration may lead to disengagement or unrest. Examples of this structural tension surfacing can be seen in the outbreaks of violence in Port Moresby, Papua New Guinea's capital, in January this year, periodic unrest in the Solomon Islands and the civil strife in New Caledonia—although of course there are other political factors involved in each of those scenarios. In Micronesian States, populations are decreasing, creating a different set of pressures altogether. But the other side of that coin is that young people can be a driving force, both for democratic renewal and for economic innovation.

An old tension, but one that's becoming increasingly prominent, is traditional versus modern governance. Pacific governance systems often blend democratic institutions with traditional structures. This hybrid approach has strengths, but it also creates friction. With customary leadership versus electoral accountability, traditional leaders wield significant authority, sometimes clashing with elected officials. This is more so the case in rural areas rather than in urban centres, but this dual system can create confusion around accountability and again weaken public trust in formal democratic institutions. On the role of faith and civil society, religious organisations playing a hugely significant role in Pacific societies, often acting as moral arbiters and service providers, particularly in health and education. While this is generally positive, it also means that democratically elected government representatives sometimes struggle to assert their authority in key policy areas—again, health and education.

Women's political representation in Pacific Island parliamentary systems remains significantly below global averages, at around 8 per cent of parliamentary seats compared to an average of 26 per cent globally, reflecting ongoing challenges in achieving gender parity in political leadership. The under-representation of women in Pacific island Parliaments is influenced by factors such as traditional social norms, limited access to political networks and systemic barriers within political institutions themselves.

Something I touched on at the beginning of my remarks was the frequent motions of no confidence. Motions of no confidence are common in Pacific island countries due to a combination of structural, cultural and contextual factors that shape the political systems. These motions are generally destabilising and are also a reflection of the dynamic and fluid nature of Pacific politics. At its core, the tactic is a reflection of the focus on individual, personalised leadership over systems and institutions. This is a transplant from traditional chiefly governance structures and reflects the community expectation and, therefore, a priority for individual MPs for personal management of service delivery in their respective constituencies. Parliamentarians are deliverers of services as well as legislators. They are two quite separate roles that they have to carry simultaneously. Beyond this, regional and clan-based loyalties, rather than ideological or national political identities, greatly affect voter behaviour and community expectations.

So what does the future hold for Pacific democracies? We'll see a continued blending of traditional and modern systems. However, maintaining balance will be increasingly challenging as external pressures grow. Geopolitics will continue to place pressure on Pacific countries. Climate change pressures will continue to increase, as will demographic and economic pressures, and so on. The trend is increasing pressure and increasing strain on existing systems. Nations may need to redefine the roles of customary leaders and elected officials to achieve clarity and cohesion in governance.

Regional cooperation, as seen through the Pacific Islands Forum, which is the region's peak political, economic and cultural body, will face tests of unity—we see this time and again—as geopolitical and economic divides within Pacific blocs and between individual Pacific countries widen. Smaller nations may increasingly rely on special relationships with larger countries—for example, the Nauru and Tuvalu deals and others like them in the North Pacific or Polynesia. They may turn to more organic coalitions like the Polynesian Leaders Group, the Melanesian Spearhead Group or the Micronesian bloc, broadly reflecting geographic and ethnic commonalities among Pacific countries to amplify their voices. This will compete with whole-of-region approaches.

As climate impacts worsen, Pacific democracies may pivot towards governance models focused on survival and adaptation, shifting priorities away from long-term institution building to crisis management. But this pressure may also spur innovation such as the development of regional mechanisms to address displacement, shared resource management, shared sovereignty arrangements and climate finance. We have seen evidence on the climate finance front in the form of the recently established Pacific Resilience Facility, a Pacific-owned and Pacific-managed climate fund.

The Pacific's growing digital landscape will redefine how democracy operates. Online platforms offer opportunities for civic engagement, particularly for youth and diaspora communities. But governments will need to combat the risks of misinformation and ensure equitable access and digital literacy to safeguard democratic

processes. Pacific youth are likely to play an increasingly prominent role in shaping democracy. Their own cultural norms are different from the generations that proceed them. Their access to international narratives and their sense of individual identity spans beyond their traditional communities. This will shape their expectations for their political leaders and for themselves in the role that they play in their communities. We're likely to see increased grassroots activism, digital campaigns and demand for representation, even in traditional governance systems. Youth leadership can drive reforms in areas like gender equality, climate action and economic opportunity. The influence of external actors will continue to shape the trajectory of Pacific democracies. While engagement can provide resources and capacity-building, the challenge will be ensuring that partnerships respect local agency and prioritise long-term governance strengthening over short-term strategic interests—easier said than done.

Overall, we are faced with a region that is navigating the complex tensions between global and local forces. The pressures are immense—geopolitical competition, climate change, economic vulnerability, social transformation—but the resilience of Pacific communities offers hope. Pacific democracies have shown remarkable adaptability in the past, drawing on cultural strengths, collective action. Pacific countries are asserting their agency more frequently and in louder and stronger terms in regional, global and bilateral forums. As the region moves forward, the key will be finding ways to empower citizens, strengthen democratic institutions—Parliament to Parliament links, for example—preserve sovereignty and embrace innovative approaches to governance.

I wish to conclude by reflecting that the Pacific as a region, diverse as it is, is not a passive recipient of these global trends. Pacific countries are making strategic decisions on a daily basis. Pacific leaders are making decisions that shape the future of their country on a daily basis. Think of the Pacific region as actively shaping its democratic future in the face of overwhelming international forces. Thank you very much.

Ms NAUREEN CHOWDHURY: Thank you very much, Mihai. We are joined by Lord Fakafānua live from Tonga.

Lord FATAFEHI FAKAFĀNUA: First of all, I would like to acknowledge my fellow panellist, Mihai Sora, and observe all protocol. It is really a pleasure for me to be able to speak to such a distinguished group this morning from Tonga. I was supposed to join you in person, but unfortunately we had some recent political developments, as Mihai alluded to. We had a vote of no confidence in Parliament yesterday, which I had to preside over, and unexpectedly Prime Minister Sovaleni Hu'akavameiliku resigned, which has caused a bit of a shake-up in our political system here in Tonga.

I am very happy to have been invited by David to speak to you this morning about developments in the Pacific regarding the future of democracy. I am pleased to hear Mihai Sora give a great snapshot of the challenges due to the geopolitical tensions in the region, climate change and the economic struggles that small island developing states have, which are a feature of the small islands having narrow economic bases. Now, with more intense and fierce external shocks such as tropical cyclones, we are seeing a greater impact on the islands and, particularly for Tonga, in 2018 we saw our Parliament destroyed by a tropical cyclone.

Talking about the future development of democracy in the islands, I think it is important to frame it around the developmental needs of what are essentially nascent democracies. In 2010 we had democratic reform which saw a lot of the Executive power that was with His Majesty the King granted to the people and Parliament. The people's representative seats were expanded from nine members to 17, so that they hold the majority of seats in the House, and the Lords retained the status quo of nine seats. Altogether, in our Parliament we have 26 members.

Since the 2010 democratic reforms we've been refining our democracy. I would have to say, 14 years later, we're still going through teething issues. In the previous governments up until today, not a single government hasn't seen a vote of no confidence. The vote of no confidence was a new feature introduced after the reforms of 2010. Like many other of our neighbouring nations, we're experiencing votes of no confidence every parliamentary term. Given our history of tribalism, I think that Mihai rightly put it, it is a feature of our resilience. I explained to the House yesterday that votes of no confidence are designed to ensure that our Government, the Executive power, retains the majority support of the Parliament upon which its democratic mandate comes from.

In my experience, the only reason we fall into this trap of votes of no confidence is because of personality-led politics. This has seen us detract from what we should really be moving towards and, in my belief, that is national policies rather than personality-led agendas. I think over time, with the maturing of our democracies, we will overcome that. That only comes with time. The United Kingdom had 900 years to evolve their democracy; we've only had 14 years. So far, I think we are doing very well, considering that Tonga is a peaceful country and we're still abiding very closely by our Constitution, despite the use of these mechanisms more often than we would like.

In terms of the regional outlook, Tonga is a member of the Commonwealth. As such, we participate in the Commonwealth Parliamentary Association, which is a global grouping of ex-British Empire countries. Even though Tonga has retained its sovereignty and we have our own king, we are a member of the Commonwealth Parliamentary Association, which His Majesty King Charles III is the royal patron of. Through the CPA, we have very close affiliations with other Commonwealth parliaments, such as Australia and New Zealand, in our regional neighbourhood. Particularly with Australia, we have the twinning Parliament arrangement. Tonga Parliament twins with South Australia. We have a very close relationship with the South Australian Parliament. In fact, we're having bilateral exchanges and the sharing of knowledge and resources. After the vote of no confidence yesterday, my counterpart Speaker Leon Bignell from South Australia sent me his regards and their support. In terms of the level of engagement we have in these twinning arrangements, it defers from State to State and Parliament to Parliament. New South Wales, for instance, has a very good relationship with their twin, Solomon Islands.

Apart from the CPA and the South-East Asia grouping, the Indonesian Government, through the Indonesia-Pacific Parliamentary Partnership, has been engaging with the Pacific parliaments for some time now, for the past four to five years. This engagement is around Indonesia's aspiration to be the gateway for the Pacific into ASEAN. They've held very high-level conferences between their Speaker and their counterparts in the Pacific in that regional engagement, which is very interesting because ASEAN could serve as a growth market for a lot of these Pacific Island countries. As a non-traditional partner, this opens up more opportunities, given the regional global play that is happening between the east and the west of the Pacific.

I think one of the most important developments right now, on the back of the success of the Pacific Islands Forum, which is an executive body, is the development of the Pacific Islands Parliaments Group, dubbed PIPG by President Sue Lines. PIPG is a pan-Pacific parliamentary group. Unlike the pan-Africa groups, the European groups and the South American groups, no such group exists in the Pacific. There is no pan-Pacific democratic group in the Pacific, so the inception of PIPG is something that is new. It came out of meetings in Papeete in Tahiti. In fact, I'm currently on a working group that is exploring the modalities and future formation for the formalisation of PIPG as a proper international organisation.

PIPG has membership from across the Pacific, from Micronesia to Melanesia to Polynesia, and from Australia to non-sovereign countries such as Rapa Nui, to state legislatures such as the Hawaii legislature to other sovereign countries in the North Pacific such as Palau. This is probably the most exciting development in democracy across the Pacific. We do not exclude non-independent legislatures, so we acknowledge traditional groups such as the Rapa Nui assembly. From FSM to sovereign countries such as Fiji and Tonga, this is probably the most exciting development in the Pacific and one that I'm quite passionate about.

From there we have development and regional cooperations assisted by the United Nations Development Program, or UNDP, which is an implementation program. It is specifically talking about what we call PPEI—Pacific Parliamentary Effectiveness Initiative. This is a program that the UNDP is delivering, funded by the Australian Government, the New Zealand Government and Japan—it depends on the program. One of the programs under PPEI that is very successful is the Floating Budget Office, for instance. During the budget cycles of the different parliaments, we would have officers from Fiji station themselves in Tonga in the preparation of our budget. When Fiji's budget sessions are about to come into play, then Tonga or Solomon Islands officers would go to Fiji and assist them in the formation of their budget as well. The Floating Budget Office is designed to create concise documents that synthesise government budgets into graphs and easy-to-read formats for members of Parliament to be able to scrutinise the Executive budget more effectively. It has been very popular and quite effective across the Pacific. That's one of the programs that has come out of PPEI that's funded by New Zealand right now in partnership with UNDP.

Speaking about the future of democracy, we're looking at trying to minimise disruptions caused by democratic mechanisms like the vote of no confidence. By shortening timelines, we can ensure that, for example, if a government loses confidence in the House, we can replace that government within 48 hours so that there's minimum disruption to the country and for the government there is continuity. A lot of that reform we can only refine with experience. After the Prime Minister resigned yesterday prior to the vote of no confidence, we've definitely highlighted some features of our constitution that need to be amended in the future to ensure that we have a much smoother vote of no confidence the next time we encounter this. But because of the unprecedented time, we can only know with experience.

One key feature that was introduced in Tonga's democracy after a reform in 2010 is the introduction of constituency development funds. Mihai Sora explained that the function and role of our members of Parliament are somewhat multiple, given that they are both legislators and service providers. Somewhat perhaps controversially, the constituency development fund, which some see as a campaign fund or a slush fund which is given to members of Parliament, is designed to address gaps of service that are provided from the Executive Government because the parliamentary member is closer to his constituency and he can address some of those

shortfalls using the constituency development fund. It can arguably be a point of temptation for members of Parliament, and in some constituencies it is perceived to be used as more of a campaign mechanism rather than a service delivery tunnel for the constituencies.

In trying to address some of these perceived issues, we are looking at internet connectivity and technology to ensure greater transparency of these funds and better accountability—so practical things like setting up websites and social media accounts where you have a running tally and a score of where the constituency development fund is being allocated in each constituency and the constituents are aware of where their member of Parliament is allocating these scarce resources.

When I think about democracy and the evolution of the Pacific region from a global perspective, Tonga is also a member of the Inter-Parliamentary Union, the IPU, which mirrors the work that the CPA does. But the Inter-Parliamentary Union is one of the oldest intergovernmental organisations in the world, based in Geneva. It predates the League of Nations and the United Nations. It is very old and is a grouping of Parliaments from all around the world. The United States is one of the founding members but is actually not a current participating member of the IPU. We can meet and have bilaterals in the IPU with counterparts from China to France to the Speaker of Ukraine to delegations from Russia. It is very important for us to be able to participate in these global forums, given that there is a wealth of experience and knowledge and exchange that happens at the IPU conferences that happen twice a year.

Unfortunately, the membership of Pacific parliaments in the IPU is one of the lowest in all the regions. This is due to a lack of resources and an inability of most of the parliaments in the Pacific to, one, pay the dues, the annual subscriptions, to be a member of the IPU, but also to send effective delegations to these meetings, which happen once in Geneva every year and then rotate among the memberships every other meeting. This has given our budget in Parliament considerable strain, especially in the past two years since I was elected as an Asia-Pacific member of and representative of the youth forum of the IPU. My term ends in March next year, just as I turn 40. One of the reforms that our board has implemented is the reduction of young parliamentarians, from the age of 45 down to 40. It's a bit crazy to think that in the political realm 45 is still considered young. That's because the mean age of a parliamentarian is still very old.

In line with the work that we do at the Inter-Parliamentary Union, we also advocate for greater transparency, anti-corruption, democratic rights, youth engagement and participation, women's participation in politics. Most particularly relevant to the Pacific nations, because we see this as a security issue, is the problem of climate change and the lack of response from the global north to the changing times in terms of ensuring they have NDCs, or nationally determined contributions, that match the ambition required for us to keep our temperature rise below 1.5, according to the Paris Agreement.

And so, in our Parliament, we are looking forward to the trilateral project between Tonga, Australia and New Zealand and the reconstruction of our parliament building. We see this as an important partnership between three democracies in the Pacific and empowering our people and our democracy. It's very fitting that the people of Australia and New Zealand are assisting Tonga in rebuilding our Parliament. Because of climate change and the rising sea level, we've had to move our Parliament from its site where it resided for over 100 years to a new location that is higher and more resilient for climate change in the future.

In summary, I would just like to say that there are many challenges that we are facing in our Parliament in Tonga. Our processes are still very nascent. Our members are still discovering their role. The members of Parliament are still finding their feet in terms of the balance between being a legislator and a point of service provider for their constituents. We are still exploring this and we're still refining democracy through our legislative processes. Our standing orders are currently being scrutinised, given that we have just undertaken with the CPA a benchmark study which has resulted in about 19 recommendations. The score for our benchmark has given us a resounding pass in terms of our democratic rights and processes. So I'm very happy with that, but the work hasn't stopped. We're just beginning to explore ways of ensuring we have a more effective democracy that reaches our population and encourages more civic participation.

Hopefully, I'll be around for a few more years to ensure that what we hand over to the next generation is something that we can all be proud of in terms of Tonga's democracy and our burgeoning middle class. The pool of politicians is growing and not diminishing, and that trust in the democratic system hasn't eroded to a point where fake news or populism takes over. Those are just some of my thoughts. I think it may be more appropriate if you have any more questions I can help you with. Thank you very much for your time. Thank you, David, for inviting me to participate in this program.

Ms NAUREEN CHOWDHURY: Thank you to both of you for sharing your insights with us. We'll now be taking questions from the audience, including from those who are with us online.

AUDIENCE MEMBER: Thank you very much for those two fascinating speeches. From a Tongan perspective, I was very pleased to learn about the relatively new Indonesia partnerships with Pacific parliaments and also the PIPG initiative, which seems a very logical step. You referred to the Inter-Parliamentary Union and the usefulness of dealing with or sharing experiences with a wide range of parliaments, including China. Obviously China is a very important trading partner, but I wonder, in the context of parliamentary exchanges, how useful that is given the nature—all power is with the Communist Party in China and not with the National People's Congress.

Lord FATAFEHI FAKAFĀNUA: Just to give you an idea of some of the outtakes and the potential points of engagement with China, when there was the development target in the United Nations called the Millennium Development Goals—which has now been superseded by the Sustainable Development Goals—one of the goals was poverty alleviation. The global target for poverty alleviation was only achieved in the Millennium Development Goals because of what China claims to have achieved in terms of their poverty alleviation—the sheer number of people that they took out of poverty, which is sometimes determined by a dollar, by day or, in some jurisdictions like India, it's based on calorie intake.

The programs, in our exchanges, were very useful for us. When we would visit China, they would take us on tours of how they implement their poverty alleviation programs. A lot of the approaches that we see, particularly from the West, cannot be implemented immediately somewhere that is still developing in the islands. On that point, I see a lot of merit in south-to-south cooperation, because the level of development in the contexts are very similar, so the obstacle to implementation of some of these programs are very low-hanging fruit for some of our legislators. That's just one of the key takeaways from an exchange with somewhere like China. You have to look beyond the obvious. It's a bit like a buffet—you take what you like and you leave what you don't.

AUDIENCE MEMBER: My question will be on New Caledonia. During the protests we saw a new regional player, Azerbaijan, which is an oil-rich dictatorial regime. It is trying to change the political system of New Caledonia. Does Azerbaijan, as a new player, pose a real threat to democracy in the Asia-Pacific?

Mr MIHAI SORA: I think it's important not to overstate the impact of that campaign. It contributed to the disruption and it contributed to misinformation, but it's important not to take away from the genuinely felt political grievances within New Caledonia—their journey of self-determination and the tensions there between the official position of the metropolitan power in France and political stakeholders in New Caledonia. We live in a world where there'll always be insincere or non-genuine inputs into all discourses, but that's not to detract from the real conversation, which is the question of New Caledonian self-determination.

AUDIENCE MEMBER: I just wanted to get your opinions on the age-old question of State sovereignty versus complex interdependence. For nations like islands in the Asia-Pacific region, you're tackling transnational issues like climate change, and you're working with IGOs like ASEAN and global government institutions like the UN and the UNDP. For the future, do you predict that there might be some financial debt or some type of dependency caused because of that, which will then hinder further development of democratic institutions down the line?

Lord FATAFEHI FAKAFĀNUA: Every year we have a donor meeting where multilateral and bilateral partners attend, and we look at what we call the NIIP, which is the national infrastructure program. It's basically the country's wish list, and it could span from a high school to a bridge to a new power station, and they sort of negotiate. But at the last meeting with donors that I went to, I was quite critical of the whole system because, as a Tongan and a proud Tongan, I am wary of donor dependency. The desired outcome of ODA—official donor assistance—should be for sovereignty and financial independence, and so it's very important that we're not just ticking boxes when we talk with our bilateral and multilateral partners. It needs to be towards that outcome. We have to set up our infrastructure so that we can become more independent so we can ensure that we're widening that economic base.

To the question that was posed from the front, yes, we are quite concerned, and we don't want our debt levels to be at a point where our democracies and our independence of choice are compromised. That is something that we're very cognisant of but that we have little control over. As a small player that has minimal impact on what happens around the world, all we can do is accept what we get from everyone, and we have little choice on who we can deny access to in our nation.

Apart from that, ideologically, we have a foreign policy of "enemy to no-one and friend to everyone". We have to ensure that we become more resilient to insulate ourselves from external shocks, and not just economic shocks but also geopolitical shocks. The smart play there—in terms of a real-life example, when the war in Ukraine started and OPEC restrictions happened, oil prices saw inflation in Tonga in the double digits. Now for us, even though we are espousing climate change action, decarbonising our economy is actually insulating ourselves from those external shocks. It's not just good for the environment, but because the Pacific Islands

contribute 0.02 per cent of carbon emissions, it doesn't matter if we decarbonise. What matters is, when we decarbonise, we unplug ourselves from those external shocks—we insulate ourselves from those problems. I hope that answered your question.

Ms NAUREEN CHOWDHURY: Mihai, did you have anything to add?

Mr MIHAI SORA: I think that's a terrific question. In the broader sense, that is an issue that is constantly debated within the Pacific, and it's a question that a donor country like Australia thinks about all the time in its engagement with the region and with individual countries. The answer is different for every Pacific country. Particularly for a country like Nauru or Tuvalu right now, it's a very pointed question and a very pointed answer. It speaks to the reality that for some Pacific nations, for some of the microstates, they are not economically viable without a permanent relationship with some sort of larger partner. Another way to look at it is that for the challenges facing the region—climate change, transnational crime, the tensions within democratic institutions—Pacific countries do depend on each other and on international partners. There is a, in the natural sense of the word, dependency.

I think globally right now we're facing a reality where we all depend on each other to some degree or another. The ultimate goal for all donor countries should be to achieve economic independence in their recipient countries. I think that would be a headline priority for all Pacific Islands countries. It is certainly what the leaders are frequently trying to tell us. There's an opportunity there for Pacific countries to interrogate and rearrange the sorts of development programs that are presented to them. I think what geopolitics has done for the region is given Pacific countries more leverage to improve the balance in those relations. Typically, development programs have been mostly a function of supply rather than demand. If you have multiple offers from multiple partners, you now have a bit more agency to say, "Thanks for all of these kinds of programs that you give to us because it reflects the skill set that you have or the resources that you have, but we don't want these; we want these things." So you're seeing a rearrangement in some aspects of the development relationship. A lot of that is about addressing this issue of long-term dependency.

Mr DAVID BLUNT: Thank you both so much for those great presentations. Lord Speaker, particularly, thank you for joining us today. You give us all a great sense of confidence that the future of parliamentary democracy in the Pacific is in really good hands. I have two questions and they both relate to things that I have heard you speak about at the Presiding Officers and Clerks Conference over the past two years, but I also wonder whether Mihai might want to comment on them as well. First, we had a presentation this morning about AI and its potential role in relation to parliamentary democracy. In 2023 I think you freaked us all out with a presentation about an experience with a deepfake in the Tongan Parliament. I wondered if you might share that story with the audience this morning? The second question relates to the frequency of not only no-confidence motions in Pacific jurisdictions, but also the frequency of recourse to the courts for the resolution of fundamentally political issues. This year you talked about a couple of really important court cases in Tonga that had the potential, perhaps, to be an antidote to that frequent recourse to the courts. I wondered if you could say something about that as well?

Lord FATAFEHI FAKAFĀNUA: Thank you, David. I almost forgot about all those experiences. In one of our sessions, we had one of our members speak as he ordinarily does and within 30 minutes there was audio of him circulating on social media and actually picked up by mainstream media in Tonga of him swearing in the House. It was so seamless. If you didn't hear the live transmission of the House, you would believe that he did swear in the House. It got to the point where we had to revisit *Hansard* and replay the real audio within the House so that the members themselves can be assured that it never happened, even though it didn't happen. Obviously, there was some AI technology used to augment his speech and insert things that he didn't say. But what shocked us was how quickly it happened. This happened within the same day, within hours of it occurring. It had to be rectified, so I had to play the live audio from our records within the House just so that the member can be at ease, because he was being attacked from all angles for abusing his position and swearing in the House.

That brought us to the current century. We thought that Tonga was the last place where we would experience AI and deepfakes but, lo and behold, we saw it in our democracy and our Parliament. The frequency of votes of no confidence to me—it's still going to be a feature until we can move politics from personality led to national mandates. I think, because we don't have official parties in Tonga, it's still going to be the case moving forward. All we can do is minimise the harm caused by votes of no confidence and that's what we're doing by refining the relevant clauses in our Constitution and also standing orders to ensure that votes of no confidence are dealt with swiftly and resolved efficiently.

The judicial reviews that you mentioned—they were a shock to the system because I found myself personally attacked. Members of the House did not accept a resolution that was passed by a majority of the House so they decided to challenge the resolution by taking Parliament to court. As the leader of Parliament, I was named as the Speaker in this judicial action. To be honest, when they took the action to the courts, we assumed that the

courts would not touch a case that is within the ambit of the Legislature. We assumed that the respect of the Latimer House principles would be enough defence for us, but our courts decided to hear the case. So we were sort of forced into a corner where our defence was "We do not accept the courts' jurisdiction in legislative matters due to the principle of separation of powers."

It got to the point where our case was heard by our highest court, which is the Court of Appeal, and the two judicial reviews reviewing decisions that I had made in the process of the House were heard by the Court of Appeal. I won both cases of the judicial reviews. It went so far as to reinforce the authority of the Speaker as the final arbiter and interpreter of the rules and standing orders of the House, in accordance with the Constitution. Full circle, the members who took me to court last year used the judicial review case and ruling to reaffirm my decision in the vote of no confidence yesterday, which is very ironic. The case that they lost they used as an example to back their own arguments yesterday. I was just laughing to myself and the Clerk, thinking, "There you go. Now they're going to use the case that they took me to court over for their own purposes." Politics is really dirty, but that's the reality. I'm just happy that because of the judicial review, the courts and the landmark precedent are in favour of the Speaker and the Legislative Assembly's independence from the judiciary and the Executive. It worked in our favour. Even though we didn't ask for it, it has reinforced our independence as a branch of the three branches.

AUDIENCE MEMBER: I have a question for both of you about women in parliaments in the Pacific, which was mentioned earlier in one of the speeches. I wonder, can you fill in a little bit more detail about what you see as measures or mechanisms that might improve the 8 per cent average and get that higher? Are there existing measures that work in some legislatures that could be adopted more broadly?

Mr MIHAI SORA: We'll start with the amateur and then we'll turn to the professional. I don't think there is a single policy solution that can be applied even consistently within the same location. These are questions that are also a function of evolving cultural norms and also the political economy of individual systems. What is surprising is that it's not an uncontroversial objective, even among female sectors of the population—among women, to put it simply—as in you would naturally assume that the group you are seeking to, in your eyes, politically empower would go along with that. But it's contested in different ways there as well. What that speaks to is just how complicated this notion of how formal women's political representation is.

There are different possible solutions that are tried and tested in various contexts, to do with quotas within Parliament, quotas within parties and professional networking groups. Think of it like a talent pipeline for young athletes, those sorts of things—changing school curriculum or employing faith-based organisations to start to reshape expectations around gender norms with the assumption that it will then link in a positive way to actual increased political representation. There are questions there around redefining how we recognise political representation. There's academic work saying you're looking at seats in Parliament but women's political representation happens in other ways also. So we need to recognise that to fully quantify—if that's what we're seeking to do—the role that women play in their own politics.

Ultimately, solutions have to come from the individual political contexts themselves. As an external aid practitioner, you might have a toolkit of possible solutions and then you need to co-design how they may be applied locally with where you're trying to get them to work. I think you might be surprised with what's accepted and what's rejected out of hand. It's not a straightforward metric that everyone is seeking to work towards.

Lord FATAFEHI FAKAFĀNUA: I have to agree with everything Mihai has said. For the last decade we've been struggling with this issue, and even today we have one elected woman representative in our Parliament and one appointed by the Prime Minister, so there are only two female members in our Parliament. It's something that I believe quite strongly about because for 10 years now I've been advocating for women's representation. I think when I synthesise the issue down, it comes down to a choice between the current system where there is perceived to be no obstacle for women—they have the same opportunity to enter politics as men—and ensuring that we have a temporary special measure whereby we force women to be in Parliament under a quota system.

In my conversations with women, much of the obstacle is from within. In the last general election and in all the elections that we've experienced, women, when faced with a choice between voting for one of their peers and a man, would rather choose a man than a woman who is campaigning in the constituency. The reasons are very complex but I think, until we can somehow consolidate that with the need to have more women in Parliament, we won't see much change.

I have faith that the constant education and civic work that we're doing now will somehow bear fruit in a generation. I think when you look at sustainable change and lasting change in our democracy and representation, it will have to be an intergenerational move to increase women's representation. There is no clear-cut answer because temporary special measures have been discussed and have been introduced in the past, but the biggest detractors from that are the women in our society. Unless there is change from within, and on an individual level,

I don't see much difference happening. On that, I take solace in the fact that our civic education will probably bear fruit in the next generation.

AUDIENCE MEMBER: I have a question on what you think is the importance of young people in the future because, as we all know, young people are going to be running politics and political institutions into the future. What do you think is the importance of young people building those relationships now, particularly between Australian parliaments and the various different institutions in Australia, and then those same institutions in the Pacific region? What do you think is the importance of those ties at the moment between young people to build that mutual understanding so that, in 15 or 20 years time, those ties can be incredibly strong? How do you think that can come about?

Ms NAUREEN CHOWDHURY: Lord Fakafānua, do you want to take that one?

Lord FATAFEHI FAKAFĀNUA: As a member of the Inter-Parliamentary Union Forum of Young Parliamentarians, we do a lot of work with young parliamentarians. We understand that, especially in the Global South, there is a very young demography. In terms of Tonga specifically, I think over 60 per cent of our population is under the age of 40. Don't quote me on that, but we have a very young population. Our voting age is 21. However, in a move to capture the young and engage them early, I'm of the firm belief that we need to lower the voting age to something closer to 18. If you are old enough to go to war for the country or to drive and be responsible for passengers in your car, I think you're old enough to vote. In Tonga, you can marry when you're 16 with your parents' permission, but you can't vote until you're 21. I think that's absurd.

So, yes, we both acknowledge the importance of youth engagement in the future of the country, in our development. We also acknowledge that not enough is being done. We understand that in this day and age there is heavy competition for screen time and the attention span is getting smaller and smaller. Political concepts like democracy, Parliament bills and legislation—a lot of the rules that govern everyone's day-to-day lives—are often forsaken for the youth. A lot of our youth are disenfranchised because they don't see themselves in political representation. They see Parliament as the domain of much older people. There is a lot of disinterest and disconnect.

Part of the challenge that we have in building a modern democracy is trying to engage and reconnect with the youth population. We are doing many things to do that. We're trying to be innovative in how we approach and capture the youth, from children's books about how democracy works right through to youth parliaments that we host every year, to engaging with them in their own playgrounds on TikTok, Facebook and Twitter. But it's a constantly moving target. It will hopefully bear fruits in the future, as our democracy matures and our people become voting citizens. Yes, we are both concerned and engaged with the youth moving forward. Hopefully our new Parliament will be reflective of that. We will have a new way of approaching the younger population. The new Parliament will have space for civic education. There is a classroom. There is also a gallery for classes to come in and watch parliamentarians speak. We're building the infrastructure for more civic education amongst the youth.

Mr MIHAI SORA: At the Lowy Institute in our Pacific Islands Program we have a project called the Aus-PNG Network. It's a combination of leadership building and public diplomacy in the sense that our focus is on improving understanding between Papua New Guinea and Australia at the community level. Our core stakeholder group are young people. Our main activity is something called the Emerging Leaders Dialogue. We have this week-long residential activity that we run every year and follow-up activities throughout the year. We target 10 Australian and 10 Papua New Guinean young people under 40—we have a very broad definition of that—from a range of different sectors, from civil society and government to business, sports and arts to journalism. The objective there is to build those peer-to-peer connections, recognising that not only is it important for young people in Australia to have a better understanding of where we're placed in the world but also there is a huge youth cohort in Papua New Guinea and across the Pacific, really, that will come to shape the nature of the region. They will make political decisions, economic decisions and choices about culture.

One of the themes that really resonated with me is that young people, particularly from the PNG side, say that they feel they are walking in two worlds. As young people, they feel connected to global narratives. They feel globally aware. They feel like they are global citizens. But there is also a deep cultural and traditional side of their identity. Sometimes it is not related to the things they are watching or reading or speaking about—their aspiration. Sometimes it is in direct conflict with that. But, as individuals, they have to find a way to marry these two.

We are going to see a lot of change, a lot of social transformation throughout the Pacific as a consequence of this cohort of people coming through, being globally connected but also physically placed in their traditional communities, their traditional lands. It is so important to connect these people with other young people, to build those networks as early as possible so that, by the time they are 40 or 50, they have trusted relationships across

borders and can discuss issues that affect the region—so connecting young people not just through formal parliamentary or democratic institutions, but thinking more broadly of young people as individual change-makers.

The other resonating theme is just how isolating it can be to be a young person seeking to effect a change in whatever sector, whether it is through film or music or changing social norms within your village or your community. Whatever it is, that change-making journey can be incredibly isolating. Just the simple act of connecting with other people who are trying to effect change, even in another sector, we found is really empowering for those individuals. So I say more support for civil society that seeks to connect young people in a physical and sustained way and more support for formal institutions accommodating the interests and cultivating the interests of young people in formal parliamentary processes.

Ms NAUREEN CHOWDHURY: We are out of time for questions. Thank you to everyone who did ask a question and thank you very much, Mihai Sora and Lord Fakafānua.

Ms JENELLE MOORE: Thank you again to our speakers, and please join me in thanking Naureen Chowdhury as well. That takes us through to lunch. We have a fantastic session planned for you this afternoon.

(Luncheon adjournment)

IMAGINING THE FUTURE OF PARLIAMENTARY ENGAGEMENT

Dr SARAH MOULDS, Associate Professor in Law, University of South Australia

Ms JENELLE MOORE: Welcome back, everyone. I hope you had a really fantastic and restful lunch break. The theme for our next session is engagement. Before we hand over to our expert, Dr Moulds, it was suggested to me that we share a little of the way that we do engagement here at Parliament. While we spend a lot of time focused on external engagement, there is also a really strong focus placed on internal engagement, building capacity both in our members and staff and ensuring there are opportunities to discuss why and how things work the way they do. One of the highlights of my job is working alongside the talented team of people that I collaborate with in the office of the Black Rod every day. Many bring a range of unique talents to their everyday work, and we benefit from a particular wealth of talented musicians. You might have noticed that what we call our "amp-up video", created by Rachael Ho, is perfectly timed to soar at all the right moments. That reflects her side passion of playing violin in an orchestra. Our Clerk, David, is in fact a classical guitarist and a former punk rocker—I kid you not.

One of the projects our team is responsible for is a weekly online production of the Friday debrief, a half-hour session hosted by the Clerk where we run through the highlights of the week. With the assistance of staff from across the department, we explain the use of unusual procedures, unpack how the Clerks or the President have navigated a difficult decision, or sometimes celebrate something really funny that happened in the House. And we always finish with music. For a while, the former Leader of the Government would weave a song into one of his answers in question time just for us, but now we just find a song that sums up the week in some way. We finish each year with a Christmas-themed show and the final song is, of course, a Christmas carol. It was suggested to me that, given we've all just come back from a big lunch, it might be a good way to get everyone in the right frame of mind for engagement by sharing one of our Christmas-themed outtakes from the Friday debrief. So I present to you *All I Want for Christmas Is You*, with artistic production by Rhys Melbourne, Rachael Ho and Nathan Stein, outstandingly performed by the members of the Legislative Council.

[Video played.]

Ms JENELLE MOORE: That was further proof that democracy is an art, not a science. That takes us to our next session. To introduce our next speaker, it's my pleasure to introduce Steven Reynolds. Steven is the Deputy Clerk of the Legislative Council and has served in that role since 2011, having previously led the procedure office and committees office, been Usher of the Black Rod and served across a range of other leadership roles in the department. Please join me in welcoming Steven to the stage.

Mr STEVEN REYNOLDS: Thanks, Janelle. This next session will look at some examples of best practice in public parliamentary engagement from around the world. It will also explore the importance of amplifying a range of voices and encouraging direct citizen participation in democracy. To start off with, to do so, allow me to introduce Dr Sarah Moulds. Dr Sarah Moulds is an Associate Professor in Law at the University of South Australia, Editor of the *Australasian Parliamentary Review* and co-founder and director of the Rights Resource Network South Australia. She is passionate about parliaments and connecting citizens and communities with lawmakers.

In 2022 Dr Moulds was awarded a Churchill Fellowship to explore how to empower young people to engage effectively with Australian parliaments. That will be a fascinating read when that report is available. Dr Moulds is actively engaged in local, national and international conversations about the role parliaments can and should play in holding governments to account, and how communities and parliaments can work together. She's also currently the course coordinator for the parliamentary law practice and procedure course of ANZACATT—which is the Clerks club, if you like. It is a course to which each year we send two or three of our staff, along with other parliaments. We've got very positive reviews about the course that Sarah now coordinates. She is also the deputy chair of the International Parliamentary Engagement Network, a group that helps connect people to parliaments all around the world. Please join me in welcoming Dr Sarah Moulds.

Dr SARAH MOULDS: Thank you so much for having me. I'm so excited to be here amongst a cohort of people who I deeply admire and who have influenced my thinking about parliaments and parliamentary engagement for such a long time. Thank you so much for including me in the proceedings today. I'm going to share with you some of the examples that have inspired me from my work at the International Parliamentary Engagement Network, which is a network that you can all be part of. It's a group of practitioners and academics from around the world who connect together to share experiences and examples. We partner with the INTER PARES union and UNDP as well as a range of national parliaments. We have a regular seminar series as well as

an Australia, New Zealand and Pacific community of practice. We'd love you to be part of the IPEN, and I can help you with that process, if you wish, at the end.

My key message when it comes to public parliamentary engagement is that I think that there's an urgency that I see when I look at my own children and the young law students that I teach. That urgency is around this feeling of whether democracy is for them and whether they are thinking, "This is my Parliament." Some of them are, because many of them are really engaged. But some of them can't see themselves yet as being part of that institution. They're not looking to that institution as the place for them to understand, contest and participate in decisions about our democracy that are going to shape their world. I think there's an urgency that's placed on us to have a curiosity about what that would look like for the next generation and for the young people who are in our community at the moment, and to see what we can do with that curiosity to learn together about how to set the right conditions for that engagement.

That extends also to the people in our community who might be older but also feel that sense of exclusion. It also means, in my thinking, that we need to broaden the parameters of what counts as participating in a parliament. That means, whilst this presentation's going to focus on things like petitions and committee work and outreach programs and websites, I think when we think more broadly about the kind of democratic discourse that exists in our community all the way from something like civil disobedience and protest at one end to the other end where we might be using social media and contesting concepts of truth, we need to be active and curious about those expressions of democratic participation as well so that we can get a sense of where our parliaments fit in. It's this kind of urgent feeling that I've had that has driven me to want to research and learn more about what parliaments are doing.

I also want to acknowledge that there are people working in Parliament here in New South Wales and in every Australian jurisdiction who've worked longer and harder on this topic than me. To them, I bow down with gratefulness for the hard work that they're doing. If you have a story of success, I want to hear it so that next time I do a talk like this, I can explain how fabulous you are. But it might be helpful just to talk about what I mean by this idea of public parliamentary engagement.

The little circle that you can see there with "information, understanding, identification, participation and intervention" is a kind of cycle of engagement that my colleague Cristina Leston-Bandeira from the University of Leeds, who is the chair of the IPEN, has developed. It connects really into this idea of empowering people in relation to their surroundings and institutional settings. It was first a typology developed by Rowe and Frewer, who talk about the three elements of public engagement as being about communication, consultation and participation, and Cristina has added those other concepts of intervention and understanding. The idea is that you need all of these elements in the journey to take you towards something that might be categorised as deliberation or, what has captured my attention recently, this idea of democratic listening.

Deliberation and democratic listening—people have written PhDs on both those topics. For me what it's about is you have to change something. You have to shift something in your thinking. To get to that point, you have to be in a listening position with respect and trust and safety, and you have to be prepared to relinquish something in light of a different opinion or a better solution. It's that kind of democratic listening and deliberation that I'm really interested in. How do we create that in the Parliament? It's very hard because it brings us close up to some big philosophical existential questions about representation and representative democracy in parliaments. Is this the proper work of parliaments, or should we be saying that at election time if you're elected by a constituency, you go in there and do your job, and that's what the people want you to do. They delegate their democratic expression to you in the Parliament, and you go forth and prosecute that with your best foot forward. Is that what we want, or are we interested in multiple moments between elections where we facilitate democratic listening?

I think I'm still exploring that myself with curiosity from other, greater minds, but I do know that the young people that I talk to in my research and that I teach are interested in the in-between-election moments of democratic listening. I have this strong sense that if we are not curious about the voices who are missing, we're unlikely to be able to make really good laws. I'm interested in this democratic listening idea. Therefore, if we're interested in those concepts of engagement, deliberation and democratic listening, and we think that that might be what good parliamentary engagement looks like, we need to have a plan for parliamentary engagement because in the past I think our understanding of engagement has been around information sharing, broadcasting and maybe a little bit cheekily dress up and pretend. But if we want to move into a mode where we're doing democratic listening, then we have to be a bit more thoughtful, the same as if we want to diversify the voices that we're hearing from.

To do that, we need to have a plan. We look around the world at the parliaments that are facilitating these kinds of experiences; it is because they have actively planned for it. That's not to say that there aren't people

working in parliaments with all the right instincts, but if we don't plan with a strategy we can't measure. If we don't measure, we don't know if we're getting better. Also, if we don't evaluate, we reduce some of the legitimacy for the people who are doing this work. So if we really want to value good public engagement, let's set ambitions around it. These kinds of concepts are things that Cristina and I have tried to distil from some of the great examples of best practice that have been shared with us through IPEN. It's really about measuring accessibility, rates of participation.

Then we get into this interesting concept of divides: Is what we're doing reinforcing the existing social divides that might persist in the community around an issue or are we somehow addressing those divides in our engagement? This is really challenging, because usually it gets close to that line between politics and parliamentary service, which my students from the PLPP remind me of all the time. I love having these conversations because, as a naïve academic, I think everything is political—not in a partisan sense, but participating in a conversation about parliamentary democracy is, to me, inherently political; there is no neutral. So if you're a committee secretariat, you believe in the power of the committee as a good thing, you want it to continue, you want it to succeed. But the question is does that extend to you suggesting to the chair that you might go out to a different location, to Whyalla or Port Augusta, that you might actually invite some kids in to hear what they've got to say, that you might open it up to TikTok for submissions? Should that be your role as a committee secretariat or is that up to the chair to decide because you're not a political operative?

These are challenging things to think about. But we've got to start having those conversations about the appropriate role for parliamentary services staff and what we expect from chairs and committees in these systems. These boxes can also apply to things like visits to Parliament, or the furniture, or the entries to your facilities, or the website. The "issues-led" rather than "process-led" is particularly pertinent for younger people in my research. There are young people who have strong affiliations with political ideologies—definitely, there are—but there are also lots of people who are now identifying on issues. Therefore, if we want them to participate in a parliamentary process, we have to lead with the issue, and the issue might require a really different strategy around engagement, depending on what that issue is. If you're doing issue-orientated engagement, suddenly, whether or not this is an upper House or a lower House committee is completely irrelevant. The name of the committee is not helpful anymore, because people are following this on the basis of the issue.

An example of this is in the beautiful South Australian Parliament. It has an amazing engagement team. I don't know how they do the work they do with such a small number of staff. But on the website, if you want to work out if there is an inquiry, you have to know what the committee is called and what House the committee is in. Knowing what the issue is about, like the Dog and Cat Management Act or renewable energy or voluntary assisted dying, will not help you enter that experience. This is an example where other parliaments, issue-led, get a different kind of engagement response.

By the way, I think Australia is doing an amazing job of public parliamentary engagement. When I was lucky enough to go to the United Kingdom and England and Ireland and Wales and Scotland, and when I've talked to colleagues in Brazil and in Spanish-speaking parliaments, they all think Australia is doing great, and New Zealand. Some of the things we're really good at are education—working with teachers on civics education—and submissions to parliamentary committees. In both of those two areas, one of the reasons we're so good at that is because our members are so good at being accessible to communities. They're happy to talk to kids. They're happy to go into communities and RSL clubs or hospitals and be physically present. That's part of an egalitarian culture that's really powerful in Australia. So that's one of our benefits.

I have the petitions there. We're getting better at being flexible with petitions. We are doing public engagement well in some places. Particularly when we think about how do we take Parliament out into the community, or how do we invest heavily in regional areas that don't get the metropolitan cultural experience of a presence of the Parliament in their world, that has made a big difference. But, really, the missing piece for me is the dress up and pretend element. We have to think about how can we give people a taste of civics that's more than pretending and actually changes something about parliamentary business. That is hard because that's political. That means that we are going to be creating the environment for democratic listening that's going to be potentially uncomfortable and challenging.

But if we can find a way to do that in a way that upholds the professionalism of our parliamentary staff, that is true to the concept of a contest of ideas rather than party politics, and that is safe for the participants, then I think those are the magic ingredients we need for really effective parliamentary engagement that hits parliamentary business. What I'm talking about doesn't have to be just about legislation. In New Zealand there is a fantastic group of young people advising the Parliament about how they share information about the Parliament to young people. They've got young people leading that and young people making decisions. They are effectively giving them some control over things like budget to change something real about the website, about the way that you make submissions or about the way that you participate in something. That's in addition to the other dress up

and pretend-related experiences of coming down and sitting in the Chamber and talking about it—that's kind of what I'm talking about.

When we look further afield and imagine what parliamentary public engagement could look like in the future, again I come back to that big-picture dilemma—is this something we want to be investing in? I've got a PhD student who is looking at saying, "Let's invest in diversity at the other end—at elections and the type of people who are running for office—in the hope that we don't need this kind of public engagement approach." But then there's a lot of evidence that I've found compelling about the idea of let's create parliaments as spaces where people can participate and see themselves as being in the Parliament—the Parliament in their life.

Examples can be organised around the themes of place and space, history and healing, direct citizen participation, the deliberative models and then using technology. Place and space—it is really fascinating to see how parliaments around the world are using space to really change the way that people understand what the institution of Parliament is. This is challenging when you've got historical buildings, but it can also be done in lots of different ways. In New Zealand there is a playground out the front of the Parliament—I don't know if people have seen that—that changes the entry point. In Scotland they've got franchise for 16- and 17-year-olds, and they've got a lot of these storyboard interactives as you walk into their space. In Wales the whole building has been designed with light as a metaphor for transparency and accountability.

In Austria they've got a really interesting combination of space and technology to enable citizens to interact with different historical displays that showcase the history of democracy—a bit like we see in this great Parliament on the walls but in a very interactive way—but also to interact in real time with the legislative process, so to actually sit there and type in a comment next to a provision of a bill that's being debated, and that comment gets sent directly to their elected member. That information is then synthesised using AI and other techniques so that after that experience they might go home to find a message in one of their social medias that says, "It looks like you're interested in the Dog and Cat Management Act. We have passed on your thoughts to the members. Did you know there are these three things coming up that you might want to be involved in?" That comes from that space experience.

The other thing that I noticed when I went to the UK was the way that they do UK Parliament Week now. UK Parliament Week started as "everybody come and experience the glory of Westminster." For a Parliamentary geek like me, I said, "Yes, please. Let me touch that suffragette foot that they knocked off and see the stained glass." You could not stop me. But they realised that was really reinforcing social divides, so they changed UK Parliament Week and they armed every member with really deep stats about the community. They said, "You've got six sports clubs in your community and only two of them have ever clicked on anything to do with the Parliament or any of your work, so we want you to go and talk to the other four. We are going to give you a pack, and the pack has talking points that might appeal to that community, and it has a game," or whatever. "Then we are going to have a competition for the MP who gets the most different hits." They changed the way they did UK Parliament Week to instead go out. It was a small change that picks up on some of those indicators of good engagement that I talked about.

Seldom heard voices is another area that IPEN is interested in researching. Australia has done very well when it comes to Auslan and diversity needs in terms of communicating proceedings in Parliament and committee opportunities, and it is increasingly good at improving access for neurodiverse people, people with disabilities and different languages. But there is still some work to be done, and we can see examples from other communities. One example is the ROMACTED Programme, which the European Union and the Council of Europe has initiated around the Roma population in Europe. That is a population that spans many different jurisdictions, but it is really just taking the idea of active curiosity and relationship building first, before then relying upon a parliamentary-driven experience to engage with that community.

That might be spending time at festivals and places where the Roma population goes to listen to the things that are most important about their lives and the access issues that they might have for conventional participation in politics or Parliament. It is then developing those bridge relationships so that, when there is a Parliamentary inquiry about housing or an opportunity for estimates questions about funding or a citizenship constitutional issue, there can be the opportunity to reach back into those kinds of communities. But it takes a long-term investment to build that up. That program is a really good example.

The Victorian Parliament is doing a really small example of community-scale engagement, and up there is the South Australian First Nations Voice, which is quite a formalised approach to hearing from voices that have traditionally been excluded. In the South Australian case, this is for Aboriginal people, and it sets up a formalised statutory framework for the election of Aboriginal representatives. It is not just geographical representation, although that is part of it, and the idea is that the First Nations Voice has a dialogue with the Executive and

Parliament on issues impacting Aboriginal people. That is in statute—it is law—but it is in a pilot phase in the sense of evaluating whether or not it is delivering for Aboriginal people.

The Northern Ireland Assembly has a really interesting initiative called the Older People's Parliament that was convened during COVID. It provides a platform for older people to voice their concerns about public service delivery and to be a bit of a citizens' jury on standby for parliamentarians. They are able to pass motions and question witnesses like a committee. They are familiar with youth parliaments. It is a similar kind of model. In Scotland and Wales, young people can vote at 16 and 17, and they have youth parliaments with 11-year-olds. Those youth parliaments have committee-like powers to question public servants. They do not have privilege, which is of interest to me. They cannot access parliamentary privilege, but they also survey children at election time and then they collate that data by constituencies so that the elected MP gets—at the time when it is front of mind for them because they are in election mode—rich data on what kids think in their electorate. It is an accountability mechanism that is available to young people who are part of that process. This is what I mean about that there has to be a political power shift, with a small p, if we want to get the engagement beyond a kind of broadcast into something that might resemble democratic listening.

What about direct citizen participation? There are some really interesting examples of this. In Scotland, they're experimenting with a range of combinations of parliamentary committee that we would be familiar with combined with citizens' juries—lots of interesting pilot examples where they get groups of people into the Parliament in Scotland for a weekend to deliberate on something: an issue to do with justice policy or to do with health policy, or environmental policy. Effectively that deliberation becomes a piece of evidence for the committee to use. That's been a technique that the Scottish Parliament has really found to be useful and not too disruptive to the regular Westminster traditions. But they're also experimenting with incorporating that into a kind of budget scrutiny process as well, which is really interesting. The German *Hallo Bundestag* project is also a really interesting citizen-initiated kind of concept.

But the one I wanted to tell you about was the Clean Air Act in Thailand. In Thailand, the process that they've got there around petitions is petitions-plus, because effectively you can design a piece of legislation as a group of citizens, and if you get the minimum number of signatures, this draft legislation has to proceed through the committee process and be debated in the Parliament. This was achieved with the Clean Air Act. There were seven drafts of this Act that were developed by direct citizen input and then refined through the House of Representatives in Thailand, and ultimately passed through the upper House and then enacted—direct citizen-led legislation in that case.

The last couple of examples that we've got here—I think I've told you about the Rito example in New Zealand around a pilot program of young people focused on procedure. The first picture there is in the House of Commons where they were using citizens' juries. I think the middle one is the Youth Parliament in Wales. The technological frontiers, really, in my view, are just enhancing those techniques that I've already told you about, but one of the great things about using some of the software and the generated text materials and mechanisms like ChatGPT or Copilot or those kinds of things that we're familiar with is that when they're designed, when they're purpose-built for parliamentary engagement, they can remove the moderator.

We've had examples of this in Brazil during COVID where citizens were commenting on COVID legislation in real time using these apps. We saw members of Parliament actually move across the Chamber, looking at their phone, in response to indications of their constituency on particular proposals around amendments to legislation. We've also seen this used in Germany for budgeting—citizen-initiated budgeting processes using this kind of software. The Brazilian Chamber of Deputies is really the standout with using AI as well. It's helping to bridge a gap between these interactive experiential things that happen in place and online and the actual legislative process—synthesising a lot of comments that have been made online, for example.

To finish up, I wanted to talk about future generations. In Wales, there's a Future Generations Commissioner whose job it is to anticipate and think about the laws we're making now for the generations to come and run that kind of lens over policy and legislation. But there's also some fantastic work being done in education scholarship—scholarship of teaching and learning—about how to empower young people, children, preschoolers, in democratic decision-making in place, so in their classroom, so that they're not just learning about kings and queens and Parliaments and governments, but they're actually practising democratic decision-making to make decisions about when they stop and have fruit break, or what kind of glue guns they're allowed to use, or what should happen to someone who felt bullied. They're using those techniques and that's what they're modelling and experiencing.

So how do we get from where we are to where we want to be? I think this cartoon that was drawn for me by a friend of mine for my Churchill Fellowship work is really just trying to illustrate that there are some building blocks underneath that the institutions have to do, but we also have to be opportunistic for catalysts for change.

We saw that with COVID. Suddenly we had permission to use hybrid and online as a legitimate source of communicating. Devolution in the UK had that impact too, where locally they were able to take control over certain aspects of policy, which changed the party political, entrenched binary positioning and created opportunity. I think we've got to take advantage of those kinds of winds of change as well as invest from the bottom up. But I do think that, if we're not shifting power, we won't get democratic listening. That's challenging for everyone working in this space.

But Sally Coyne from the Scottish Parliament, who is amazing and has been there for a long time, has delivered a seminar called "Moving the institutional elephant"—a cute title and very good seminar. That's where I'll end really—to say that that's the type of experience you can have as an IPEN member. You can watch Sally Coyne either live or in a video later talk about how they moved the institutional elephant in Scotland. The map there is the mapping work we're doing about all the different countries that are enthusiastically working on this question of engagement that we can connect you with. Please think about joining IPEN. We've got so much to be proud of here in Australia about engagement, but I hope you join me on this urgent quest to remind the people whose voices we're not hearing that we are curious about their life and that we're curious about what good parliamentary democracy looks like to them.

Mr STEVEN REYNOLDS: Thanks, Sarah, for that very inspiring talk. It really scanned the whole parliamentary world. I'm sure you'll get a lot more people signing up for IPEN after today. Some of those concepts like the 11-year-old's running estimates hearings was—I wouldn't want to be the education Minister appearing before that committee. Now there's an opportunity for you to ask questions about anything you've heard or just on this topic. We've got roving microphones.

AUDIENCE MEMBER: I was fairly interested, especially, in you talking about youth parliaments. Earlier this year I was in Youth Parliament here in New South Wales. It's run by the YMCA. It's for young people in New South Wales in year 10 to year 12. They get to write their own bills, debate legislation and vote as well. I was able to see some magnificent young people. We'll be hearing from some of them later on today. I wanted to hear your thoughts from the experiences that you've had with other youth parliaments overseas—what we could potentially do here in New South Wales to help better represent young people and how we can reform engagement with young people with stuff like Youth Parliament.

Dr SARAH MOULDS: It's an excellent question. I think all of the young people participating in Youth Parliament display that kind of determination to uphold and model democratic ideals and to represent others. I see almost all youth parliaments having that curiosity about the lives of people who are less privileged than them and trying to draw attention to those experiences, acknowledging the opportunities they have to experience the procedures of Parliament and sometimes talk directly to elected members. I think it's something we must continue to invest in, but I do think that the Australian model tends to exacerbate those social divides and also sometimes can raise an expectation that's not delivered.

Let me be clear: Youth parliaments are excellent—the people involved are amazing; let's keep doing them. But let's not stop there, because, for example, many youth parliaments are self-selected. You have to apply and then somebody makes a decision about whether you can participate. In some youth parliaments, including in South Australia, you have to pay to participate. In Scotland, Northern Ireland and Wales, they have elections. So you're elected to youth parliament, and that gets different types of people in those parliaments. They also have a quota for under-represented groups, to make sure, and I know efforts are done in Australia for that as well.

But really, to me, the thing that needs to shift is that we need to give the youth parliaments a bit more power—whether that's procedural power, whether that's public power in terms of media and promotions, or political power. We need to keep working on those other things too. Political power looks like more young people running for office—and Australia, globally, has quite old parliaments—young people running for local government, and young people having franchise. Procedural power means can you call and question witnesses. Can you hold government to account once you deliver your brief or your bill? The public power means do you get to tweet whatever you like. There are often a lot of rules around what counts as good participation, as a young person in a program, and what's seen as outside of that.

I think those other jurisdictions show how you need a combination of things and you need to keep asking yourself: Which young people are we not hearing from? But all power to these magnificent people. I appreciate that there are many members of youth parliaments in New South Wales and every part of Australia who are carers, who are working hard, who are taxpayers, who have experienced domestic or family violence, who are gender diverse, or who identify as a minority group. I'm not trying to discount the significance of their leadership in those ways, but I think we need to do more.

AUDIENCE MEMBER: I'm glad you mentioned the franchise thing, because my question is this: Have you learnt anything from Wales, Scotland and the other areas about how we're going to get 16-year-olds voting?

It's really important now. The example I've got is I have a granddaughter who has just turned 19. She missed out on the two elections last year because she didn't turn 18 in time to vote in the State or the Federal, so she's basically going to be in her twenties before she gets a chance to vote. Next year she'll be right, but she'll basically be 20 when she gets a chance to vote. So it's not real to talk about 16-year-olds voting because the electoral cycle means that they may well be over 21 before they get the chance. There must be methods to get the people aware of this need.

Dr SARAH MOULDS: I agree with you. First of all, it's very challenging to compare Scotland and Wales and Australia, for example, because of the compulsory voting aspect in Australia and the eccentricities of each jurisdiction's voting. Also, the research in Scotland and Wales, and voting in European elections, says that empowering young people with voting is a really important democratic experience that can be lifelong, especially if they're voting when they're still at school, because they're in a support environment that helps them. However, it doesn't necessarily lead to progressive results, so you've got to be careful what you wish for if you're hoping for a substantive political shift.

Also, does someone who votes when they're 16 then always vote? There's mixed evidence about that in jurisdictions without compulsory voting. So it's not perfect, but it absolutely focuses the attention of the political class on youth issues in a different way. It also focuses that next level down, from 11 up. That is where the investment then is. Because that investment is at school, there is a different opportunity and a different audience experience for that. The exciting thing for me as a lawyer is that we do not to change our Constitution to have 16-year-olds to vote. In New Zealand, a group of young people challenged the Electoral Act on discrimination grounds. Many of the arguments that are run around the idea of not having 16-year-olds to vote need to be revisited on the evidence. But I am a realist. I cannot see this happening any time soon.

A local government in New Zealand had a young mayors program. They got young people, 15, 16 and 17, to be elected alongside mayors in an advisory capacity. These young people were so smart that they went to the council by-laws and realised that they could have a vote in one of their committees. They voted as a bloc and they voted to enfranchise themselves in other planning committees. They exerted political pressure then because they said that they could hold up a planning approval process using the procedure in their way. I think we need both, like that catalyst picture. We need institutions to start investing and lawyers and whatever else to start putting that on party platform agendas and things, but we also need to be opportunistic with what young people want. I should say that evidence is also mixed. There are passionate advocates in Australia that are young people who want to vote, but there is also some evidence that not all young people want to vote.

AUDIENCE MEMBER: My question is about people from migrant or refugee communities who, in their lifetime, never had the chance to vote because they live in dictatorial regimes. When they come to western countries and are enjoying liberal democracy, they also maybe face some difficulties in understanding the complexity of the liberal democratic system and to integrate into western societies. Are there any orientations for newcomers regarding western liberal democratic values and how to engage politically within the system?

Dr SARAH MOULDS: It is a brilliant question. There was a really interesting Senate committee inquiry into that kind of question of civic engagement and civics education across Australia, and there were some really interesting submissions that included those from different migrant communities about what kind of practical things would make a difference. One of the examples that kept coming up is the opportunity for elected members to go to places where communities are and adopt that listening position to understand the local issues, and then use that as the opportunity to talk through their procedural, legislative and constitutional settings around voting. The City of Salisbury council in Adelaide—I am using all South Australian examples, sorry—has done a lot of really interesting work at local government level and in participation with refugee communities. I think it has to be almost personal, almost one on one with trusted support to really create an environment where people can participate. But that is the dream set-up.

There is a lot parliaments could do to make the materials they already produce more accessible. Parliaments are working on that, but we cannot do that by guessing. We have to employ, pay and value people with those experiences, just like they have in New Zealand with those young people. We need to pay those people. An example in Manchester is really fascinating. There was a post code that had very high crime rates and really big problems with police. They tried all sorts of different things to try to get feedback about what these problems were and what to do to fix them. They ended up doing no-strings-attached loans, microloans, to families. They were saying, "£2,000—take it. We just want you to come back in two months and we want to ask you some questions." They spent that money on driver licences and driver training for certain members of the family. They came back and then said, "Okay. We're really interested in what's happening in your community—why you don't have these relationships with police. What can we do?"

Because that trust was given, they got a really different response. I think we have to try a whole lot of different things if we want trust and engagement—whether people in privilege give up something seems to be the theme. Have a look at that Senate committee inquiry because there are great submissions from multicultural groups about what they've seen work and what they think we should do.

Mr STEVEN REYNOLDS: I'm getting the wind-up signal from Jenelle, which probably means the tea and coffee is ready. If you have further questions, and I am sure some of you do, please find Sarah at the tea and coffee cart. Thanks again, Sarah.

Ms JENELLE MOORE: Thank you again, Sarah. Please join me in thanking Steven Reynolds. As Steven said, it is now time for afternoon tea. We'll have a quick break and come back at 3.00 p.m. for our final two sessions. They are going to be fantastic. We have a panel of our youngest members and a youth panel.

GENERATION NEXT: OUR YOUNGEST MEMBERS OF THE LEGISLATIVE COUNCIL ON DEMOCRACY

Dr AMANDA COHN, Member of the Legislative Council

The Hon. CHRIS RATH, Member of the Legislative Council

The Hon. JACQUI MUNRO, Member of the Legislative Council

The Hon. EMILY SUVAAL, Member of the Legislative Council

Mr DAVID BLUNT: Welcome back, everyone. We have two final linked-up sessions for you to bring us home this afternoon. We have two panel discussions. The second one is a panel of young people and youth parliamentarians. The first panel is a panel of four of our youngest members of the Legislative Council. I might say four but there are only two on the stage. This is a lesson in the vagaries of the parliamentary environment because right now, as we speak, our other two panellists are at a deliberative meeting of one of our parliamentary committees.

There is a select committee on music and the arts education. It is a very important subject, on which there are lots of passionate views. The deliberative meeting started some hours ago, but I understand they are going through the report line by line and dealing with lots of proposed amendments. Our final two members will join us as soon as that meeting is finished, but we will get underway with a great two-person panel. Can I begin by asking Dr Cohn and Mr Rath to introduce yourselves and tell us a little bit about your stories and how you came to be members of the Legislative Council.

Dr AMANDA COHN: I am the newest member of The Greens in the Legislative Council. I was elected in March last year. Before my election to Parliament, I was a GP. I live in Albury-Wodonga. I was also a frontline emergency services volunteer. I suppose I took an interest in politics over the years from my work on the front line seeing the kinds of issues that were impacting my patients and the people I was caring for in my community. Interestingly, living in Albury-Wodonga, right on the border of New South Wales and Victoria, also really shows the difference that the State government and State politics can make tangibly in people's lives. I took an interest in politics and joined The Greens because I saw that they aligned with my values. They supported policies that I thought would benefit people that I really cared about.

I ran for my local council in 2016, never expecting in a million years that I would get elected. Albury's a very conservative town. There had never been a member of The Greens on local council in history. I took the opportunity to stand as a candidate so that I could express my views, and those of people I cared about, in the local media, and have an opportunity to debate the existing members of the council and hold them to account. I very unexpectedly got elected and ended up becoming the deputy mayor of Albury for the subsequent five years. It was a role that was incredibly rewarding and very challenging, being the deputy mayor and a frontline clinician during the pandemic with the border closures, but it only really made me more passionate about the political process and the opportunity to use that to drive change for my community. Then I had the honour of being elected to the State Parliament last year, and it'll be great to talk for the rest of the afternoon about how that's going.

The Hon. CHRIS RATH: It is a very different story at my end. I was one of those cringe Young Libs that joined the Liberal Party in 2006, when I was 16. I was inspired to get involved in the Liberal Party at the time when I was looking at the news with then Prime Minister John Howard and Treasurer Peter Costello. I thought, "I'm inspired by these two political figures." I think I signed up to the Young Liberals in my school uniform, just to prove how particularly cringeworthy it was. I think if you had asked me at that time, sort of high school and the early days of first- or second-year uni, what I wanted to do with my life, I probably wouldn't have said, "Be a politician." I think that at that time, I probably wanted to do something in finance or economics, maybe go into banking or something. But over time at uni, I probably got even more interested in politics than I did in my original passion of economics and finance. I became almost a bit addicted to anything political and started reading a lot, interacting with people with similar ideas and values, challenging each other.

I became a staffer here, in the New South Wales Parliament, for a few years, back when we in the Liberal Party first formed government with Barry O'Farrell in 2011, so some time ago now. Then I went into the private sector for some time in the insurance industry, for about seven years. At that time, I was also on the Liberal Party's State Executive, which is like the running of the behind the scenes of the party, the stuff that you don't see. It's not the elected officials here in Parliament, nor is it the staffers that assist the members of Parliament, but it's the head office functions that sit behind the political parties. Every party's got them, but it's essentially, in the Liberal Party, a volunteer job.

For me, the political issues that I'm still interested in today are what got me involved in the first place, which was very much those economic issues of things like taxation, government expenditure, things like industrial relations and the running of the State economy. I think that when people think about economics, they think very much about the Federal Government, but the State Government still has a huge amount of taxation and spending powers. Most of the assets in infrastructure are held by the State Government. I think that being an MP, you can really make life better for people, and I think everybody here, in terms of the Parliament, wants to make life better for people. We have very different approaches of how to make life better for people, but I think that is the ultimate aim: to make the country and the world that we live in a better place.

Mr DAVID BLUNT: Thank you very much.

The Hon. CHRIS RATH: I should have spoken for longer—the filibuster. I should say that I'm now the Opposition Whip as well in the Legislative Council, and I'm the shadow Special Minister of State, which is probably one of the most confusing titles in all of New South Wales Parliament. It's got responsibility for the electoral system and for the integrity agencies as well as other responsibilities that the leader of the day may delegate to you.

Mr DAVID BLUNT: Thanks, Chris Rath. Amanda Cohn, as one of the four members of The Greens in the Legislative Council, you split up the Government portfolio responsibilities amongst you. Which portfolios are you looking after?

Dr AMANDA COHN: I've got quite a list. In total, there are about seven members of the New South Wales Parliament who are from The Greens, so we have to split all of the Government portfolios only seven ways. The bigger parties can split that more ways, so it's quite a lot of work. I'm The Greens spokesperson for health, local government, emergency services, youth, sport and recreation, LGBTQIA+, waste, and air quality, which is a lot of work.

Mr DAVID BLUNT: That's quite a combination. Can I ask you both, what were your first impressions when you were initially elected in 2023 and 2022?

The Hon. CHRIS RATH: The first thing that was very strange was when you arrived and all of the parliamentary staff that work here are all so respectful and they're like, "Mr Rath, Mr Rath." I don't think I'd ever been called Mr Rath before. The other thing that was very funny was that the people that didn't know who you were kept asking me, "Who are you a political staffer for?" as one of the younger MPs, and you have to say to them, "No, I'm a member." They're like, "No, you're not. You're a staffer, surely." I'm like, "No, no, no. I just got elected. I'm new."

I think one of the big changes—and I'd said before that I was a staffer here in 2011, 2012, 2013—coming back in 2022, nine years later, is just how much the upper House had actually changed in that nine-year period. In 2011, 2012 and 2013, the government of the day basically ran the show in terms of the Legislative Council. There was nowhere near the amount of scrutiny and accountability mechanisms in place that I had in those early days compared to what I experienced in '22 when I first got elected and what is still in operation now. There are things like a much stricter and more regular budget estimates process, things like relentless calls for papers or freedom of information requests through the Standing Order 52 provisions, a huge amount of new committees and inquiries that have been created, and a much larger crossbench.

I think my first impressions being elected in 2022, compared to having been here as a staffer nine years earlier, is that the government of the day probably almost always got their way in those days and today, especially on Wednesdays, very rarely ever gets their own way. That was probably a big shock when I first got here, just how much more difficult it is for the Government now, compared to what would have been the case 10 years ago.

Dr AMANDA COHN: We've found something to agree on this afternoon. Absolutely that experience of being a younger member of Parliament and being mistaken for a staffer, that's probably a weekly occurrence for me, even though I've been here for nearly two years. I'm going to start with the bad in my first impressions so that I can finish with the good. I promise it's not all doom and gloom. This in some ways is a very archaic institution. It's a very historic institution. There are aspects of tradition that are really beautiful and precious that are 200 years old, but there's also aspects of that tradition that aren't in keeping with community expectations in 2024.

It was probably confronting in my first few days in terms of first impressions of the colonialism of some of those rules and standing orders that are very old-fashioned ways of doing things, things like starting every morning of the sitting with the Lord's Prayer. I don't think that's in keeping with community expectations in 2024. I still find that quite jarring, and it probably reminds me at the start of every sitting day that I don't necessarily always feel welcome here.

There's a few things about the workplace culture in this building that really need to improve. Coming from the health sector and from emergency services, with an absolute zero tolerance for drug and alcohol in the workplace, the fact that alcohol is consumed so liberally here was really confronting. It's also fairly confronting that your colleagues, because they have parliamentary privilege, can really say what they want in the Chamber. You wouldn't normally expect in your workplace in 2024 to be exposed to hate speech, and that can actually happen here. That's the bad. I told you I'd start with the bad.

In terms of first impressions that were a pleasant surprise, actually meeting some of my colleagues who I'd heard about in the media or seen on television before but had never actually met was on many occasions a pleasant surprise. They're people who I may have policy disagreements with, and that's why we're here. We're representing different constituencies of the people of New South Wales. But there are a lot of very real, very good human beings who work in this building, and I'd extend that to all of the parliamentary staff as well. There's hundreds of people who work here who do a really good job. Particularly in the Legislative Council, because it's a smaller Chamber, because there's been many years of minority, that requires more collaboration historically than has been needed in the Legislative Assembly. There are days where this is a surprisingly collaborative workplace and we can sometimes get things done across party lines to benefit people in New South Wales. That was a very pleasant surprise coming into a workplace that I expected to be always in conflict. It's not always in conflict.

Mr DAVID BLUNT: I've been scurrying up and down the stage, passing back and forward notes. The bad news is that your colleagues are going to be at that deliberative meeting for the whole of the next hour.

The Hon. CHRIS RATH: You're not getting the string quartet. You're only getting the duet today.

Mr DAVID BLUNT: We'll see how good you are at filibustering. Talking of the slightly archaic terminology, Chris Rath, you're the Opposition Whip. What does the Opposition Whip do? What is a Whip?

The Hon. CHRIS RATH: Your job as the Whip is to ensure that everybody else is doing their job. I would say it's almost like being the project manager for, in my case, the Libs and the Nats, in the Legislative Council.

Mr DAVID BLUNT: Did you say the Libs and the Nats?

The Hon. CHRIS RATH: Yes. We've got a Deputy Whip as well. Liberals and Nats, I think, together. We are a coalition, but yes. There's a Deputy Whip as well, who more looks after the Nats. But, yes, I look after the Opposition broadly, both parties. It's like being the project manager in many ways. You have to make sure that everyone's doing what they're supposed to be doing at the right time. Are they in the Chamber? Do they have their speech ready to go? Do they have their amendments to whatever the legislation is, or the motion? How long are they going to speak for? There's a real cadence to the upper House when you're a Whip that you need to understand. Sometimes you want things to go really, really quickly, because you want to get on to whatever the next item is on the business list. Other times, you want to slow things right down. You want time to negotiate with the Government or the crossbench on a particular amendment or motion.

In many ways, for your party, or parties, that you're the Whip for, you're almost like the conductor. You need to make sure that every instrument is doing what they're supposed to do. Sometimes it's quite stressful, because someone will miss a division, so they're not in the Chamber when a vote happens, or they thought they were on a pair and they've requested leave, for instance, but they were mistaken, or they forgot their speech in their office or whatever it might be. We're all human. We all make mistakes. I can tell you I've definitely made mistakes as the Whip. But there is a real sort of project management role to being the Whip. It's a bit of a jack-of-all-trades, master of none. You need to be across what the Chamber's doing at all times, but it's not like you're an expert in any one particular thing that is before the Chamber. You're not the shadow Health Minister, shadow Education Minister or shadow Treasurer. You are more looking at it from a process perspective than from a policy perspective.

It is an important job. It would be hard to run this place without Whips. I think the Whips often get a bad name because of programs like *House of Cards*, whether it be the American version or the British version. I can tell you it's mostly inaccurate—mostly. But, no, it is a very important job, and you're constantly working very closely with your colleagues. It's more collaborative. There's very little arm twisting, I can assure you. It's more a collaboration with colleagues and with members, rather than being unnecessarily aggressive in your approach.

Mr DAVID BLUNT: Thank you. Amanda Cohn, yesterday there was a members panel that we had with members who have been here for quite a while. We had a member of, I guess you'd say, the conservative crossbench. You're a member of the progressive crossbench. What's it like being a member of that group of six but also one of four Greens members in the Legislative Council?

Dr AMANDA COHN: I deeply enjoy being a member of the crossbench. I certainly wouldn't have it any other way. I think we have far more opportunities as individuals to meaningfully influence outcomes, and I suppose that comes with the privilege of the moment in time in which I was elected, where you've got minority government in both Houses of Parliament. The government of the day has to negotiate with someone to pass their legislation. On many occasions, that's us, so it's an opportunity to negotiate amendments to legislation, for example, and that's certainly very rewarding when it's something that we're able to achieve.

It's also a really important role, particularly in the Legislative Council, about transparency and accountability of the government of the day, and we do that extremely genuinely. I know that I am never going to be a Minister, I know that I'm never going to be the Premier, but my job is to hold the government of the day accountable to the promises that they've made and inform the public about what's going on. So opportunities that we have like budget estimates hearings a couple of times a year, where we ask the Minister and the department questions on behalf of our constituencies on the record in a public setting, are just extremely valuable, and it's something that I take really seriously. I see that as an incredible privilege and an incredible opportunity to do good work for the people that we're here to represent.

The Clerk has referred to this sort of notional conservative and progressive crossbench, which is very interesting. Depending on the issue that we're voting on, you could split the crossbench up in that way, but I think the beauty of the crossbench is that we're not formally grouped in that way, which means, depending on the issue of the day, we may vote in very unusual blocs. For anyone who's really interested to look at the way divisions go in the Legislative Council, we've probably had in the last 20 months every possible permutation of the crossbench at some stage. We're not always voting six one way and six the other way. I really appreciate that really genuine opportunity to engage with each piece of legislation and often influence the outcomes.

I suppose the negative bit of that, though, and it came up earlier because you asked me to rattle off the portfolios, in the crossbench is we have a really, really, really heavy workload, particularly compared to my colleagues who might be backbenchers in either of the major parties. It means that for my eight portfolios, I need to be doing the policy analysis, doing the analysis of bills coming up with my party's position on legislation, briefing my colleagues in the other House. If a bill's coming to the other House before us, I need to brief my colleagues on how we're going to vote, on what amendments we're moving, what they need to say in their speech to that bill. Certainly the structures of the Parliament we've set up for there to be the Government and the Opposition, in many ways, makes it very difficult for crossbenchers to manage our workload.

Mr DAVID BLUNT: Can I put you on the spot for a moment just in relation to that experience of being part of the crossbench and voting on legislation, for instance, or motions that come before the House on a Wednesday. We might come to Wednesdays in a moment. Is it the case that every time there's a division called, you've met as a party upstairs, perhaps with your colleagues, and decided how you're voting? Are you ever surprised by an amendment that might get moved, for instance, and you have to make a call on the floor of the House together as a group?

Dr AMANDA COHN: We try as much as we can to communicate. We have a party room meeting at the start of a sitting week, just like I'm sure the other parties do, where my role is to brief my colleagues on bills that fall within my portfolio responsibilities and propose a position to that group. If something is particularly difficult or controversial for us, we have that conversation and we usually come to a position as a group when those amendments are moved on the fly, and it often does happen that you'll have very little notice. It's usually up to the person who's the portfolio holder—so, for example, me on health policy—to make a judgement call, and in many cases, it's very straightforward. I represent a party that has a very clear policy on these issues, so usually I can refer to my own party policy. If it's ever difficult or uncertain, we try to talk to each other, and we've got great modern technology, like group chats, in 2024, where you can have a really quick discussion with your colleagues if you think that one's needed.

Mr DAVID BLUNT: Thank you. Can you tell us about Wednesdays? What's unique about Wednesdays in the Legislative Council?

The Hon. CHRIS RATH: You have to define Wednesdays by what it's not. Tuesdays and Thursdays, it's the Government's day. The Government puts forward legislation. They determine essentially what the order of business looks like on a Tuesday and a Thursday. Wednesday's mainly for the Opposition and the crossbench to put forward items that we want to debate, and we do that through something called the business committee, which is sort of a big negotiation about what gets on the list and what doesn't. But it's not the Government's day. It's private members' business day.

The thing about Wednesdays is that it's a whole bunch of motions that are usually only in half-hour blocks. Some of these motions could be statements condemning something, supporting something, calling on the Government to do something. That is allocated essentially a half-hour time frame. The mover gets five minutes

to speak and every other subsequent speaker only gets three minutes, so you have to make a very short speech, unlike on Tuesdays and Thursdays, where you could literally go on for 20 minutes, 30 minutes—you could drone on for some time—but Wednesdays are very different.

By its very nature, some of the motions are about accountability. On a Wednesday, what has been used in recent years is something quite unique, the Standing Order 52 provision, which is the Parliament, the Legislative Council, essentially demanding that the Executive release papers, documents, on a certain topic. Every Wednesday, almost without fail, usually several of those motions will pass and the Executive Government will have to hand over troves of documents to the Parliament for us to inspect. Also on a Wednesday, you might use the Legislative Council to create a new committee or a new inquiry into something. So it's more our day. That's how, at least, we would view it, as the Opposition and the crossbenchers. It's our day to put up items of our choosing, whereas legislation is almost always done on Government days.

We could put forward our own legislation as well on a Wednesday, a private member's bill, so a bill that's not moved by the Government. That's probably done less regularly and, in part, you would have to assume that even if a bill passes our Chamber, so even if the Opposition and the crossbench form some sort of alliance on a particular issue, most of the time, the Government has a majority in the lower House and could just knock that bill off. Even today, they're not far off a majority in the lower House. We routinely win votes on a Wednesday against the Government. They almost never win a vote in the lower House, as in the Opposition and the crossbench combined, against the Government. They almost never win a vote downstairs, whereas we very regularly do, especially on a Wednesday, in our Chamber.

Dr AMANDA COHN: I think the most common example of that is those orders for papers, the calls for documents, and there really is a good understanding that our role collectively is transparency and accountability of the government of the day. The crossbench, as a general rule, will support those motions to call for papers, regardless of the topic, with very rare exceptions, like going after someone's personal information or, rarely, something that is potentially unethical. The vast majority of the time, all of the crossbench support those orders for papers, and it's a really important power of the upper House. I think all of us have done really important work coming off the back of those calls for papers and what comes into the public domain as a result.

The Hon. CHRIS RATH: And the Executive Government hates it. They absolutely hate it. I was 12 months in government as a backbencher and now a year and a half or so in opposition, and so I've seen both ends, and the government of the day hates the SO 52 provision. I'm sure they would get rid of it if they could, but it's a very important provision for the accountability and transparency.

Dr AMANDA COHN: It is. What I really love about Wednesday is it's the opportunity for us to actually put something on the agenda. Because you spend Tuesdays and Thursdays reacting to whatever the Government is doing. Whether you're supporting or opposing it, the topic of conversation is dictated by the Government. On a Wednesday, we can put something forward that the Government's not talking about at all but we think they should be. There may be wholly unrepresented constituencies on a particular matter, and whether it's a motion or a private member's bill or a call for papers, the Parliament will actually debate something that otherwise just wouldn't have been on the agenda at all.

It can be hugely empowering if you're working directly with a community that's impacted by some issue and actually feeling really ignored. For them, it's so meaningful and so valuable to actually have that issue put on the agenda, and that's really the value of those. Chris was talking about the 30-minute motion debate that's really rapid fire, to ventilate an issue, bring it to the public's attention, the media's attention and the Government's attention, because they're part of that debate and they have to respond to whatever we're putting up. It's an incredibly valuable opportunity and, without Wednesdays, you'd only ever be reacting to what the government of the day wants you to be talking about.

Mr DAVID BLUNT: Thank you. The good news is the cavalry are about to arrive. It sounds like the committee has finished its deliberative meeting, so your colleagues will be joining you shortly. Just before they do arrive, though, I've got two final questions on notice that I want to ask to wrap up the session just on 4.00. Before we get to that, and before the other colleagues arrive, I wonder whether I could open the floor to questions.

AUDIENCE MEMBER: Thank you for that. This Wednesday slot is very interesting to me, and I would appreciate it if you can tell us when it started and what were the circumstances that led to its introduction.

The Hon. CHRIS RATH: I think that's probably almost more of a question for David. We put forward motions, or move motions, every day, but some of the most important debates are about what gets debated. If I put up 100 motions, Amanda puts forward 100 motions, but you've only got time to debate five of them, then the debate becomes which five of those 200 motions are you actually going to debate. The old days essentially used to be a lottery, up until 2011? Earlier than that. It was essentially a random draw, whereas now it's essentially

more of a negotiation at what's called the business committee. But, David, maybe you would like to answer that from a historical perspective.

Mr DAVID BLUNT: There's always been one of the three days a week allocated to private members' business, but for many, many years, that day would start at 11.00 a.m., and then Government business would take back over at 3.30 p.m. So there would effectively be about two to 2½ hours, and the Government and Opposition between the two of them could ensure that only matters that were comfortable for both of them were debated during that time.

That all changed in 2019. The standing orders were amended by some temporary rules called sessional orders. The private members' day was extended initially from 10.00 p.m. till midnight. Now it's 10.00 a.m. till 10.00 p.m., so a good sort of 10 hours of private members' business. The length of time for debate on a motion was reduced from two hours to 30 minutes, so now we get 14 or 15 matters dealt with every Wednesday and brought to a decision. People have to vote and come to a decision on those matters, so it is a very dynamic day. In my view, it's no doubt the most effective private members' business day anywhere in an Australian Parliament and, I suspect, anywhere in the Commonwealth as well. Before we invite other questions, though, thank you so much, Jacqui Munro and Emily Suvaal, coming straight from a committee meeting. You've sprinted down here. Have you caught your breath long enough for me to be able to ask you to introduce yourselves?

The Hon. JACQUI MUNRO: Yes.

The Hon. EMILY SUVAAL: Yes.

Mr DAVID BLUNT: Perhaps, Jacqui Munro, you could go first. Could you just tell us a little bit about your story? Not the story of today, but the story as to—

The Hon. JACQUI MUNRO: The story of my life.

Mr DAVID BLUNT: —how it is that you come to be a member of the Legislative Council.

The Hon. JACQUI MUNRO: Thank you so much for having me. It's a privilege to be here, but it's also an enormous pleasure. I've been interested in politics since I was pretty young. I was always listening to RN in the morning, being taken to stage band practice with my tenor sax in the boot and Mum listening to the radio with me, and understanding that there were people in the world who didn't just comment on what was happening in the public sphere but actually had the power to change the rules of the society in which we live. I always found that quite interesting as a concept, but also to have the opportunity in Australia to publicly comment freely and then to be able to join a political party and influence in some way the composition of the body that comes to actually decide on the rules that govern all of our lives.

To me, that is a huge privilege, but it's also a wonderful combination of psychology and drama and rules and human spirit that always got me going, even from high school. I did economics and legal studies and drama and music and those kinds of subjects that were all about communication and living together and finding ways for our society to work the best we possibly can together. When I went to uni, I got involved in student politics and eventually joined the Young Liberals, with the encouragement of people like Matt Kean, who you might know, before he was an MP, and went through the Liberal Party's various roles. I was the president of the Liberal Women's Council and therefore the vice-president of the party. I'd been involved in the Young Liberals before that. I'd been a staffer for people like Malcolm Turnbull and Gladys Berejiklian.

Actually, my first ever political boss was Mark Speakman. So now he is my boss once again in this place, and it's quite a nice round trip to get to a place where we can work together again in this incredibly influential place. Through the values that I was brought up with in my family, with my mum and my dad, and their sense of community service, their set of values and the example that they lived their lives with—my mum is such an inspiration to me. She literally lived her values every day, whether it was helping kids to plant trees in the school that she was at or getting involved as the treasurer of the Bonnet Bay Netball Club so that I could play and she would be a part of that community. There's always been around me that example of service. I hope very much that I bring that to the role that I have today. So that's a little potted history of some of the ways I got here.

Mr DAVID BLUNT: And Emily Suvaal.

The Hon. EMILY SUVAAL: Thank you, David, and apologies that we were a bit delayed in getting here today. I'm in the upper House also. How did I get here? That's a very good question. The short version is I worked as a health professional for a number of years as a nurse. I got very frustrated at what I saw were shortcomings in the system. I got sick of seeing the same patients with the same issues that were preventable. That frustration led me to reach out to who was at the time the shadow Minister for Health. He encouraged me to join the party. I reached out to both the shadow Minister and the Minister for Health, I should say. The shadow Minister responded, he encouraged me to join a political party and get involved, and I did so.

I continued to work as a nurse. I then went to work for a trade union, the Nurses and Midwives' Association, which was my most recent job, and was fortunate enough to be preselected onto the Labor ticket to the upper House. That's the short version of my story. The longer version is probably a little bit more convoluted and canvasses my life experiences and the sort of people that have influenced me to today. They were obviously teachers, a number of doctors that have looked after me over the years, and health professionals that I have worked with and that have also treated me. For the longer version, I encourage you to look at my inaugural speech.

Mr DAVID BLUNT: Can I just encourage you all to do so? The inaugural speeches by each of these members were absolutely outstanding, and really, they bared their souls. I think the younger, newer members of the House are doing that in such a meaningful way. They are just outstanding speeches that I really encourage you to take the time to read on the Parliament's website. Time is getting on. Before I invite any further questions from the floor, could I ask my second last question without notice? Could each of you give an answer to this? What do each of you see as you look ahead at the future of the Legislative Council and parliamentary democracy in general?

The Hon. EMILY SUVAAL: In terms of the future for the Legislative Council, I would love for it to become more accessible. One of the things that struck me when I first started here some 18 months ago was the amount of money that had been spent on refurbishing a really old building, and it was still inaccessible for many people in our society, so that's one. The other thing that I would say, and I really look forward to this, is for our Legislative Council to continue to honour the traditions it has and the important practices and procedures whilst also embracing the change that it needs in order to more fully represent the people of New South Wales. In terms of democracy at a broader level, there are many threats to our democracy at the moment; there have been over time. We are at what I see as quite a critical moment in time in that. There is a lot of strength in our major parties, and I believe that they are a really fundamental and crucial part of ensuring our democracy is protected at all times.

Dr AMANDA COHN: I've got the slightly controversial answer, which is I think the crossbench is going to continue to grow and grow and grow. The only consistent trend across every State and Territory and Federal election for the last decade has been the decline in vote for both major parties. Whether it's The Greens or other minor parties or Independents, I think looking forward, there are going to be more and more members of the crossbench and the Parliament is going to need to be ready to respond to that. We've got 200-year-old rules that were designed around there just being a government and an opposition, and I don't think that the crossbench is an exception or an anomaly. I think we're a really critical part of that democracy functioning. I think the government of the day needing to negotiate with a variety of different people strengthens our democracy. I think it's better for all of us to have that level of negotiation. You look at countries like Germany, that have had a functioning six-party system for a very long time, and I think that can only benefit us. Emily already spoke about physical accessibility, and I completely agree, but I think there's a functional accessibility as well that still really needs a lot of work.

It's 2024. The fact that the only way we can vote is with our bottom on a bench is old-fashioned. It makes work-life balance really difficult. If we want elected representatives to actually reflect the diversity of our community, people from diverse backgrounds who live in rural and regional areas, people with caring responsibilities, with disability, we need a more functioning system. Chris mentioned a system of pairs, where major party members can take leave essentially, and they support each other to do that by balancing the vote. Members of the crossbench don't have that option. We have to be here for every vote, every time, every sitting day, until 10.30 p.m., for many of us, like me, away from our families, in Sydney. Given that the crossbench is here to stay, we need to look at some of those rules of how we can actually support us to do our job as whole people and attract that diversity that Parliament really needs.

The Hon. CHRIS RATH: I agree. I think the crossbench is here to stay, a very large crossbench. I think 1984 was the last time the government actually had a majority in the Legislative Council. I don't think any government decades into the future will have a majority in the Legislative Council. I think also our colleagues in the lower House are going to have to get used to the idea, as the Liberal Party and the Labor Party, that it will probably be hard for us in the future ever to form a majority government as well. You're seeing this now with the upcoming Federal election, where people are talking more as if it's inevitable that there'll be some type of minority government, whether it's an Albanese minority government or a Dutton minority government. There's very few people predicting a majority government one way or the other.

It's been the case for 40 years now that the government of the day hasn't had a majority in our Chamber. That's going to continue for a long time to come, and that will mean that all of these accountability and transparency measures that have been put into place in the Legislative Council aren't going anywhere any time soon, much to the frustration of the Executive government. It is probably a trend that is going to happen in lower Houses here in New South Wales and across Australia well into the future as well.

The Hon. JACQUI MUNRO: I think there's an argument for a larger upper House, and, of course, the upper House has changed over time. Obviously, the membership of the upper House has changed over time in terms of numbers, when it's been stacked, to try to abolish it, and failed, thankfully, to what we have today. Given we've got a growing population and a growing diversity, it would be useful to have that better represented in a bigger upper House, although that would dilute my vote if that were to happen when I'm elected. I think that that allows a greater consultation with the State of New South Wales.

Fundamentally, as a house of review, we have the freedom to look at issues from this State-based level that gives us a bird's-eye, and it's unique to the upper House, where lower House members are more tied to their communities and that's part of their role. In the upper House, because we have that ability to look more broadly, there is an opportunity to have more engagement with communities that run across many, many different electorates, whether it's a group of professional people, jobs that they have, people from different ethnic backgrounds, from different sexualities.

We have the responsibility to represent as many of those communities, and hopefully all of them if we can. But a smaller upper House does restrict that somewhat, so I can see that as part of the future of an upper House. I'm still not sure if this is quite the role of the parliamentary function of the upper House, but I am really inspired by tools that overseas governments, like the government of Taiwan, are using. There's one call Polis, which is a pro-social-media tool. The algorithm is designed to actually capture different perspectives and upvote, or prioritise, the viewing of what are called bridging comments. They try to bring people together and create a sense of understanding in the community around what are sometimes really difficult issues, to get a sense of consensus that can be moved forward.

Obviously, that doesn't always reflect what might be the adversarial nature of our parliaments, but getting to a point where we can gather as many different public views as possible and create a more centrist view out of those, rather than prioritising or being able to hear most loudly some of those more extreme views—we need to move away from that and start prioritising as much as we can those bridging views that actually bring us together. I'm not sure if it's the LC's specific role, but I think there are tools that can be used where you can capture more effectively lots of different views. That might be something that could be used, for example, during a committee process, where there is more of a conversation in the types of responses that we're getting, rather than just individual submissions that don't allow that sense of engagement with lots of different professionals working together.

Mr DAVID BLUNT: I feel like we've just begun to scratch the surface. It's been a fascinating conversation this afternoon, and I'm sorry we've heard so little from Jacqui Munro and Emily Suvaal. But it's been high quality. We do have another panel that needs to begin in just a couple of minutes, so can I conclude by asking you my final question on notice for a short, sharp answer: Where do you see yourselves in 2056? Why 2056? We've just about finished the bicentenary of the Legislative Council. The next bicentenary is the bicentenary of the Legislative Assembly, in 2056. Where do you see yourselves in 32 years time?

The Hon. JACQUI MUNRO: That's so hard. I'm a day-at-a-time girl. I can't look this far ahead.

The Hon. CHRIS RATH: Definitely at the bicentenary dinner for the Legislative Assembly.

Dr AMANDA COHN: I think if I've done my job of holding governments to account in this role, and governments have taken action that they need to on climate change, and people in rural and regional New South Wales have equitable access to health care, I would love to be back working as a country GP in my town.

The Hon. EMILY SUVAAL: As someone who lives with a chronic illness, I looked at that and thought, "Hopefully not dead". That's pretty macabre, but that's what I thought. Realistically, also, if I'm not dead, hopefully retired and able to enjoy a bicentenary dinner with you all.

Mr DAVID BLUNT: Very good, team. That was obviously a great dinner, so that's some excellent feedback. Can you please join me in thanking our members. We'll have a quick change up here on the stage and we'll be back underway in a couple of minutes. Thank you.

**YOUTH PANEL WITH YMCA PARLIAMENTARIANS, COMMONWEALTH YOUTH
PARLIAMENTARIANS AND REGIONAL PUBLIC SPEAKING COMPETITION WINNERS**

KOKULAAN SANTHAKUMAR, New South Wales Representative, Commonwealth Youth Parliament

INDIA JONES, New South Wales Representative, Commonwealth Youth Parliament

NOAH SMITH, 2023 Youth Parliament Premier

PRINCESS DELANY, 2024 Youth Parliament Premier

KARIN REZKALLA, Winner, Wagga Wagga Public Speaking Competition

SAMUEL SIMMONS, Winner, Lismore Public Speaking Competition

The PRESIDENT [The Hon. Ben Franklin]: Good afternoon, everybody, and thank you all for being here for the past two days at this wonderful conference being held here in the Parliament of New South Wales on Gadigal land. It has been a fantastic conference. We've delved into the history of the Parliament over the past two centuries. We've reflected on the issues and the idiosyncrasies that make the Council what it is today. And today we've looked to the future, from modest proposals about the size of the Legislative Council through to what lies ahead for our region and our world. It's now my great pleasure to welcome you to this final session of our bicentenary conference series marking the 200th anniversary of the Legislative Council. What could be a more appropriate way to finish this two-day event and, in fact, conclude our entire bicentennial program, our program of events for 2024, which do feel like they've gone on for some years now, than by hearing directly from the future of our State.

We have a panel of seriously impressive young people who are all establishing themselves as leaders in their own right. Together, they'll share their perspectives on the future of democracy here in New South Wales and beyond. It is an absolute privilege to share the stage with them. They are six young people who I have gotten to know personally over the last 12 months. All of them, I think you will agree by the end of this session, have serious futures ahead of them. I will ask each of them to introduce themselves briefly for just a minute or two and to give a bit of a snapshot of who they are, perhaps a couple of the things that they've done and what makes them tick.

KOKULAAN SANTHAKUMAR: My name's Kokulaan Santhakumar. I'm from Penrith. I'm currently a full-time Doctor of Medicine student at Western Sydney University. I'm a St Andrew's scholar at USYD, so I live at USYD and travel out to Western Sydney Uni. I also happen to fit in a bit of staffing, so I'm a staffer for the Hon. Alex Hawke, former Minister for Immigration, and I've been working for him for almost three years. I had the privilege of being selected to represent the New South Wales CPA branch in New Zealand for the Commonwealth Youth Parliament, along with India, so that's how my little political involvement has come today.

INDIA JONES: G'day. I'm India. I was also a Commonwealth youth parliamentarian. I went over to New Zealand this year. I am a government relations and campaign specialist. I'm living in Sydney, but I'm from the Hunter region originally. I'm an account director at a for-purpose communication and engagement firm called SEC Newgate but have previous experience working for State and Federal Ministers. When I was living in the Hunter, I graduated from the University of Newcastle, which I loved. I graduated from a Bachelor of Communication. That degree and the major that I did, which was public relations and strategic communications, sort of led me to being really passionate about public policy, the media, and definitely campaigning. The last couple of elections, I have been helping out during the campaign season. I'm very much looking forward to being here today. Thank you.

NOAH SMITH: *[Speaks in Aboriginal language]* Yaama, everyone. Hi. I'm Noah. I'm a proud descendant of the Gomeroi people from north-western New South Wales, but I've lived in Sydney for most of my life. I had the honour of being the youth member for Pittwater in the Y New South Wales Youth Parliament for 2021, 2022 and 2023. In 2022, I was the youth Minister for Aboriginal Affairs, where I met Ben, and in 2023, I was the youth Premier, which was a real great privilege and I got to work with some great people, including Karin. It's been really interesting. I just graduated high school this year. I've been involved in a whole range of other youth projects as well as a lot of different youth advisory groups particularly around First Nations people and making sure voices are heard, particularly in the education space. I also do quite a lot of work in bush food and Aboriginal cultural education.

The PRESIDENT: Awesome. He also was a former Youth Citizen of the Year.

NOAH SMITH: Yes, for Northern Beaches Council.

PRINCESS DELANY: Hi, everyone. I am Princess, and I was this year, similar to Noah, the youth Premier for the Youth Parliament this year. Alongside that, I'm super-excited, because I'm a UNICEF ambassador for next year. As well as that, my experiences of politics are quite new, because I'm kind of finding my place with the political sphere down in the area that I'm from, the shire. I've had a bit of fun exploring in the Premier's electorate office, which is fantastic, because I was this year's member for Kogarah, because that's the electorate I live in. I just find it so important for us to have diverse voices within the Australian political sphere, because I myself am a first-generational refugee. I think it's just so inspirational to see how other people like me have found their spaces in Australia and have been able to make their voices be heard so we can allow for this democracy wherein it's equal but also everyone's voices are heard and advocated for and given a stage to make a change.

KARIN REZKALLA: Good afternoon, everybody. My name is Karin Rezkalla. I come from rural New South Wales, from Wagga Wagga, and I guess my first parliamentary participation began with just talking with my local MPs and ended up with me in Youth Parliament. As Noah mentioned, last year I was Youth Parliamentarian of the Year in 2023. More recently, in the bicentennial celebrations, I was here with Sam for the State final for the public speaking competition. Today on this panel, I want to be a voice for the rural kids who want to really make a difference and bring their innovative ideas to the table.

SAMUEL SIMMONS: Good afternoon, guys. My name's Sam Simmons. I don't think my parliamentary résumé is quite as impressive as these other guys'. Pretty awesome people to be up here with. I, as Karin said, participated in the bicentenary of the Legislative Council's rural remote public speaking competition. That was a great opportunity for the young voices of regional Australians to be heard, and I think that's something that I find quite important, for the young voices who are growing up in this constantly changing world to really have their opinion and show how we think and what we think needs to change.

The PRESIDENT: Sam's also school captain of his school. Sam was the winner of the Lismore regional final and Karin was the winner of the Wagga Wagga regional final. It's really important to have regional representation on these sorts of panels too, so I'm thrilled that you're both here. This afternoon, we're going to break it down a little bit. We're going to look at four main themes before we then throw it open to the audience for a few questions. The first theme is going to be around the importance of young voices and why young people need to be heard particularly in the political system, in the corridors of power. The second, going on from that, is looking at what an inclusive democracy looks like and what can be done to make it more inclusive. The third is for us to consider what challenges currently exist for young people who would like to engage with the political system. The fourth is, of course, how can we finish on anything other than looking to the future and seeing what these impressive young people think is ahead of them, so when they come to the bicentenary dinner in 2056, potentially as the leaders of our State, we'll be interested to hear what their views are for that future. But starting at the beginning.

Our first theme of today's discussion is to ensure that young people's voices are not only heard but really deeply valued in shaping our democracy, policies that are enacted through that democracy and our democratic institutions. I think over the last five to 10 years, we've really witnessed a remarkable surge in youth-led activism. When I was at school, the concept of a class or a school going on strike to send a message to senior policy leaders that their actions on a particular issue—on this occasion, climate change—simply wasn't good enough would have been unthinkable. But that is now something that is at the heart of young people today. They've highlighted the passion and the creativity and the determination of young people to address the challenges in our world. With that in mind, I want to start by asking each of the young people on our panel today do you think that the voices of young people are being listened to by those in power? Do you think young people are being heard? I'll start with you, Noah.

NOAH SMITH: I got asked this question on a survey form yesterday, day before, and it was a slider scale. I think I put 85 per cent out of 100. I think a lot of government agencies and Government itself, the Parliament, do want to listen to young people. I think they do listen to young people. It's more around whether or not they're hearing them and what they're hearing is then actually being implemented. It's all good and well to have young people and engage with young people, but where does that conversation go and that co-design between young people and that policy that is designed by members of Parliament as well as the parliamentary staff? That's the important part, in my opinion—that informed, personally lived experience of young people going into how these bills are written and then making sure young people can actually see the input they've given being reflected in those policy outcomes.

It's all good and well if you have a real great conversation but then it doesn't go anywhere. I know a lot of young people that do a lot of advocacy and stuff. There's a lot of fatigue around doing all these meetings, Zoom calls, phone calls, all of these conversations. They might lead somewhere, but you never really know where it's going or where it's gone to. Some of the advisory groups I've been on, government ones, they've been really good

at making sure that the agency that we give advice to comes back when they're writing the report or before the report that they've written that we fed into is being released. They come back and say, "Here's how the stuff you've given us, the information that we talked about, is being used in this policy or in this report we're going to put out." That way, young people can actually see very, very clearly where that information they're giving is going, rather than just hoping it makes it to the ears of someone who will listen.

The PRESIDENT: What do others think?

INDIA JONES: I think to an extent yes, but—

The PRESIDENT: I've told them all, by the way, to feel free to disagree with each other.

INDIA JONES: —that being said, I think policy engagement can be improved across different cohorts in general. One thing that a really inspiring leader said to me a couple of years ago, and it's really stayed with me, was to use your voice, because if you don't, someone else will use it for you. I guess that's sort of ingrained in me: Use your voice; demand change. Because if you don't, the status quo will stay the same. And I think whilst that's my opinion, I was looking at some research by Mission Australia and even the New South Wales Government's youth consultation as well. That demonstrated that young people don't feel listened to, and so I think it's certainly something that we should look to and think of potential solutions.

SAMUEL SIMMONS: Yes. I think part of what Noah was saying in terms of the sense that we're being heard but then are we actually being listened to? I think with our current world and social media being so much of an influence, there's certainly an avenue there for young people to be able to pose their ideas and their challenges. In terms of being listened to and acted on, I think there's a general misunderstanding that it's going to be a quick, easy fix. It's a long-term process as well. Within that, it's got to be a high level of communication between government and young people of, "Here's what we're doing with this. Here's the process that we're looking at, and this is essentially how we are listening to you and how we are trying to make an impact based on the information you've given us."

The PRESIDENT: On a practical level, what can Amanda and I do better? What can members of Parliament and institutions do better to make it clear that young people's voices are being heard and genuinely listened to?

SAMUEL SIMMONS: I think a high level of communication with young people in particular, because it can kind of be lost in the fact that these young people aren't necessarily voting yet and they're not having the same impact of young adults, even. That level of communication there would be being able to say to them, "This is actually how we are doing what you want us to do," rather than keeping that communication in separate pathways where we don't hear about it much in regional areas.

The PRESIDENT: Does everyone agree with that?

KARIN REZKALLA: I think what young people have to offer is this new innovation and ideas, and they're able to be a voice for their community. As India said, someone has to be a voice. Being in a position as a young person who advocates for that, what you have is that perspective, that opinion and those ideas. What politicians, parliamentarians and people who actually have power and experience offer us is the means to achieve that real change, that action that we want to see. But maybe young people don't have an understanding of the parliamentary system enough to be able to get there themselves or the power to make those kinds of decisions. I completely agree with Sam. You need to reach out to everybody—not just people in urban areas but the rural kids as well—get their opinions and work with them to get to a solution. A lot of the time we take our ideas to decision-makers, and then they take it from there and do whatever they want with them. I think that idea of clear communication that Sam is talking about, throughout the whole long-term process, is what really needs to be emphasised.

The PRESIDENT: You've got a roomful here of key opinion leaders. There are a lot of people listening online, and this whole conversation is going to be recorded in *Hansard*, and it will be looked at as part of the academic history of this Parliament. Give us some of those ideas. You've got an opportunity now, all of you, to give us some new ideas and perspectives that you think need to be considered by Government. What should we be doing?

INDIA JONES: Keeping young people involved, right? There have been and still are some incredible people who have been involved as part of youth committees, youth forums and youth groups. They're some of the brightest people in our State. If we're looking for solutions, I think it's important to involve that in the process, which points to Noah's point.

The PRESIDENT: What about you, Kokulaan? What new idea do you want remembered in 10 years when people look back at this?

KOKULAAN SANTHAKUMAR: That's a bit loaded. More broadly, going back to some of the points that were made in terms of that clear communication, I feel like nowadays there's so many youth groups, so many youth advisory councils, which is a positive thing but it has its drawbacks. There's so much saturation as to different ways that you can influence that. People don't really see what that end product is. Going back to communication, I believe clearly understanding what you're trying to achieve—how and what you're specifically influencing—and then communicating back to that youth group what were the deliverables produced through consultation, I believe, is really important going forward.

PRINCESS DELANY: I actually have a kind of opposing view to what everybody else has said. I think there isn't enough of a relationship between our policy leaders and our young people. Yes, we have our youth forums. We have Young Labor, Young Greens and Young Liberals. We have so many avenues where, as young people, we can go out and speak. But I think the issue is, like everybody here has said, whilst we are speaking, politicians aren't hearing us. They aren't actually acting on what we're reporting we need and what we find important that we need changes on. I think what's important is for us to have a relationship both with young people and with policymakers wherein we are working together step by step to make these actual changes. With our cohort of Youth Parliament, when we were writing our bills, we'd have consultations with people—they giving us input, us taking that input and putting it into our bills and then moving forward in a hand-by-hand relationship.

At the end of the day, our world is changing so rapidly. As young people, we are having to adapt to these changes. By the time a change has happened, if we're taking so much time to communicate this to our policy leaders and them getting back to us, some new discovery has come out, something new has changed that we feel is important that needs to be valued and spoken about. We need to have a relationship where we are working together hand in hand with our policy leaders, where we are listening to what they're saying and they're hearing what we're saying, and we're working together to make that genuine change rather than it being tokenistic and materialistic, where it's like, "Oh, we're listening to you, but we're not actually doing anything." We need to be present while they're making changes that are actually impacting us and future generations.

The PRESIDENT: You raise the importance and the responsibility of leaders and policy leaders in terms of how they're engaging with young people. I think that's a beautiful segue into our second topic today, which is visions for an inclusive democracy. Democracies and governments look really different all over the world. That's not surprising. Every government, every Parliament, should be different. It should be reflective of the society it represents. But I do think that there are some qualities that are universal and that unite and link the most successful systems together.

Often it's through the traits and the attitudes and the behaviours of those who are at the top of the political structures that actually are objectively important. My question is this: When you're thinking about leaders, the sorts of leaders that you want to listen to what you've said and hear and genuinely act on, what are the most important qualities that make a great leader in today's world? And I'm not just talking political leaders; I'm talking about leaders in community, leaders in organisations, leaders in business and obviously leaders in politics. Give me, all of you, in a few words, what you think are the most important qualities that represent leaders today, starting with Kokulaan.

KOKULAAN SANTHAKUMAR: I recently attended the Alliance for Responsible Citizenship, an Australian version of the London conference. One thing that really stuck out was something that John Anderson said at the end of the conference, which was "Nowadays there's a lot of these conferences where we talk and encourage and we talk about ideas, but on the back of it there's nothing that really happens. In terms of leadership, we need people who have a vision, can articulate that vision to a mass amount of people and actively encourage people to do that." That gave me a really newfound perspective of leadership, because I always perceived leadership as a servant leader—someone who's sacrificing themselves to better a community. But this is more about how to encourage the masses. Going forward, if we want to make change as young people, we've got to stick to that model of what is that actual vision, how do we articulate it and how are we going to encourage the masses to achieve that common goal.

INDIA JONES: I think to be a strong leader, there's certainly many different aspects of it.

The PRESIDENT: I think it's more a good leader, rather than a strong leader. We're seeing a couple of strong leaders at the moment.

INDIA JONES: Yes, true.

The PRESIDENT: Anyway, we won't go there.

INDIA JONES: We'll move on. I would say you have to be authentic. You have to be true to your values. You have to be engaging. I think those couple of things are probably the core ones for me. That points out what a good leader is.

NOAH SMITH: I would agree with what both previous panel members would say, but also—and I know I don't always embody this, but I do try—being the best listener you can be. One thing that's talked about quite a lot in my Indigenous community and whatnot is the fact that we have two eyes for seeing, two ears for hearing, two nostrils for smelling but only one mouth for talking. It's that thing of observing and listening to the world around you, listening to country in that particular sense, listening to community, and responding to the needs of that country, of that community, rather than you dictating what needs to be done.

It's that listening and it's that observing, so it's not just listening to what people are saying but it's observing that body language. It's observing how the community interacts with each other. It's observing what goes on around us. For example, with our traditional cool burning, we don't have a set time of year; we don't have a calendar. We look for signs of country. Country is our calendar. The world around us tells us what we need to do, when we need to do it and why we need to do it, and how we need to do it as well. We sit and we listen and we see and we smell what's going on around us, and that's how we show leadership—by observing the world around us and reacting to it in a measured way.

SAMUEL SIMMONS: All of the points you guys have mentioned are really a part of what a good leader looks like. At the heart of leadership for me is that servant-hearted leadership, where you're not necessarily there for your own vision but to represent the people you're representing. In doing that, you're actually completely serving them and making sure their voice is heard. You're using your position of privilege in that leadership to be able to better help the people you're representing, to help them understand what's going on, how you're helping and how you're making their voices heard.

KARIN REZKALLA: For me, I'm stuck between two. One is a character trait and one is a skill set. For me, the most important thing is humility. What everybody was talking about on the panel can be summed up in this way. You can't be a good leader if you're not a good listener. You can't be that if you're not a humble person. You need to be able to recognise when you make a mistake, to be able to move forward and try and fix it. The second thing is problem-solving. Every leader's going to face challenges, problems, internal or external. I've seen plenty of people in my life who have overcome enormous challenges to be able to get to where they are and lift other people up with them as well.

The PRESIDENT: What about you, Princess?

PRINCESS DELANY: I think it comes down to appropriate allocation of your emotions. When you're a leader, you are there to empathise with the people that you are leading. You're there to make their voices and their concerns be heard. But then when you're actually representing those views, speaking on what is important to those people, oftentimes you are taking on the emotions tied to the concerns of those people with you. It's about being able to know, "I understand that you're feeling this way," and being able to empathise with someone but also being able to speak about those issues in a way which is professional but easily understood by people that can make changes on important situations.

At the end of the day, when you're a leader, you're there to represent the people that have voted for you. I'm not going to vote for a politician that I don't resonate with on a personal level. When we are having good leaders, they are people who understand our concerns, empathise with that. They see what's important to us and go on to a political or a social level and advocate for this change by others that can make genuine policy changes.

The PRESIDENT: What an excellent set of answers. If we asked this question 20 or 50 years ago, they are not the answers we would have got. What we just heard was humility, authenticity, decency and honesty. We didn't hear the usual words that you hear, or that you would have heard, perhaps—intelligence and strength and bravado and all the rest of it, "Got to push through," et cetera—which I think shows where the Parliament, where democracy, where the world is now, at a very different place in terms of looking at their leaders. You just have to go upstairs and look at the collected photos of parliamentarians from the 1950s or '60s. You will see literally the same face repeated 90 times. A fine face if you enjoy an older, slightly rotund gentleman wearing glasses and white hair, but not a reflective face of a society.

In the same way that attitudes towards what makes a good leader have really changed and, I think, deepened, what makes a good Parliament and the attitudes towards that have really changed too. To me, there is nothing more important in democracy than it being inclusive and truly representative. If it's not truly representative, we may as well go back to the 1800s, where only people with a certain amount of money or a certain amount of land could vote. Let's start with you, Karin. When you're thinking of a truly fair and inclusive democracy, what does that look like? Have we got there? And if we haven't, what do we need to do to make it happen?

KARIN REZKALLA: One of the other panellists in a previous talk said that democracy is an ideal that we can aspire to but that we may never reach. That's really important to consider here. An inclusive democracy is

something that we have been striving for for the past 200 years, but are we fully there yet? I really don't think so. The two main points that might get us there or progress us along that line is recognising that Australia is a multicultural country. We pride ourselves on this multicultural mosaic of people that come from everywhere and find a home here. Being able to incorporate their perspectives and their ideas as well is something really important that we can all use and learn from.

The second thing is making sure we hear the voices of rural people. This is something very close to the heart for me because I've grown up in a rural area all my life. It's where I've met my closest friends. It's where I've had my work experience. It's where I've ultimately been all my life to get to this point. Being able to make sure that we hear those people out in rural areas, the farmers, the rural doctors, people at the front lines with limited resources, and including them in big-city conversations, that's something really meaningful and important to me.

The PRESIDENT: What about you, Noah? What does an inclusive democracy look like? You've obviously got a different perspective from others on this stage.

NOAH SMITH: I think the history of New South Wales as the first, I guess, colony in Australia or the continent of Australia—Australia as a whole, being a colonial settlement, has a very deep history. I don't think, as an institution, the Parliament really has fully reflected on its role in that and the way that it still has a very important role in the continued dispossession and a lot of the current issues that face Indigenous people, whether that's the removal of children at rates higher than that of the Stolen Generation. There's a lot of issues in our community that aren't properly tackled by the Legislature for multiple reasons, but one of those really big reasons is there isn't that level of representation of First Nations people.

I think the New South Wales Parliament has had less than half a dozen First Nations members over its—well, the Parliament's been around for 200 years now, so there's been whatever 200 divided by six or so is. It's not a lot. That's roughly one person every 30 years or something. So there's not really historically, or even at the current moment in time, a large representation of Indigenous issues. I feel like over the past few election cycles, there's been, "Well, let's talk about a treaty. Let's start discussions about a voice," and then we get about halfway into the term and they're like, "Well, we've talked about it a tad bit now, but we'll bring it to the election so we can get a mandate from the New South Wales people to continue." You get halfway into the next term, you get the exact same thing.

I feel like that's happened quite a lot, and there hasn't been a lot of necessarily structural reform within the Parliament. I know in this morning's session about upping the numbers of both Houses, it was talked about potentially having First Nations seats or seats reserved for the Indigenous population in New South Wales. Whilst I doubt that's probably something that's going to happen anytime soon, I would really like to see it happen as I think there are multiple countries in the world where it does happen and it works really effectively. I just don't necessarily see that happening right away here in New South Wales, unfortunately, but I feel like that is something that would go a long way. Not only would it show our communities that there is a space for us, but it would give us a seat at the table. Whether or not that's actually effective because we only make up roughly 3 to 4 per cent of the New South Wales population is another question, but bringing more First Nations people to Parliament.

Also going out into First Nations communities at a greater level, and not just regional, rural or even urban communities, but going into areas where there is that over-representation of First Nations people, whether that's in the justice system, particularly the juvenile justice system. I think it's really important to acknowledge, particularly on a panel or an event like this where it's a whole group of young people from across New South Wales, from across different areas of society, that there are a large amount of predominantly First Nations young people who would not have this opportunity because they are currently in a youth justice system, because that's the way our legislation works at the moment.

I know there's been a lot of change over the past 20 or 30 years but young First Nations people are still going to jail rather than other restorative justice methods at a much higher rate. Not just restorative justice, but we also need more from the Parliament and more working hand in hand with community in that co-designed process so that we can stop a lot of the systemic issues that lead to that overincarceration, that lead to that removal of children for what is basically just labelled neglect.

It's very easy for a system or the bureaucracy because there's that footing. There is that disadvantage that Indigenous Australians have when we are trying to fight an issue that is a government issue. The Government has 200 years of colonial power and colonial backing to it, and that includes the massacring of a lot of Indigenous peoples and the harm and dispossession of a lot of our communities. That trauma is being brought to every discussion, every argument we have with government, and it just means there is that huge systemic imbalance of Indigenous people trying to make changes on an issue, but we can't really be at that same table because we are on the ground floor; they're on floor 10.

The PRESIDENT: I don't think that we can start to consider inclusivity properly until we start with First Nations, and I thought that answer was pretty outstanding, Noah. Thank you. When we think about inclusivity, obviously ensuring everybody has an equal opportunity to be involved in the political process needs to be at the forefront. What do you think, Princess? How do we ensure that everyone's got an equal chance to be involved in the political process?

PRINCESS DELANY: I think an issue that we have with the political process right now is that there is so much bureaucracy and there is not enough accessibility for young people. If I'm being honest, my first interaction with politics, and I think my only one until last year, was going to Canberra in year 6. I think that's where it stops for a lot of young people. In our school systems, if you don't pick legal studies, you're basically in the shadows with the political system. You have no idea what's going on. You have no idea what's happening in our parliaments if you're not into watching the news and things like that. The way our political system is built, it's something that seems so foreign to the young mind to see. It's something that is so distant, like, "We've got politicians. That's our parents' business. That has nothing to do with us."

Because that is that mindset, wherein politics isn't something for young people, there is a barrier wherein we are being unable to actually get a voice. I think something that's really important to make it more accessible for young people to be actively involved in politics is having more events like this, wherein we have young people speaking, but also making it easier for young people to get involved. I'm part of a young group for the political party that I'm in, and that's only because I was told about it by a friend. The issue with that is, again, if you don't have connections with people that are directly involved in politics, you have no idea what's going on. I think because we do have a public school system, we should be having some sort of understanding built within children from maybe high school wherein they can learn more about what's going on with our political system, learning more about what's happening in the laws. At the end of the day, it's going to affect all of us young people, what happens within the Houses of government and of Parliament.

I think it's super-important for us to provide means of educating young people both in and out of school but also providing a way for us to get involved. Whilst we do have youth councils and youth advisory groups, that's only for a select few people who have applied, have interviewed and have become successful. I think if we're able to make it more easily accessible for young people, having more widely open things. Something that I really love about, for example, Amnesty Australia, is they do a lot of things on Instagram where it's a box wherein young people can actually type their concerns. It's accessible for the young people that have access to Instagram. Making it more easily accessible for young people to find out what's going on within politics but also being able to make our concerns heard is super-important for us being able to be a part of this active democracy and being able to make genuine change.

The PRESIDENT: Absolutely, and that brings us on perfectly, can I say—we didn't even script that—to the third item, which is what are the challenges for young people to engage with the political system. We've seen a wonderful panel immediately prior to this with four young people who are now elected members of Parliament, but—no offence, Amanda—this generation is another one below in terms of age. Sorry. We'll just move on. Looking at what needs to be done, basically, I think now it's even more difficult, I suspect, for young people to get involved in the political process, to get their voice heard, but let's hear it from you. What stops young people getting involved in politics, getting involved in advocacy, getting involved in the political process, and how do we fix it?

KOKULAAN SANTHAKUMAR: Just reflecting on my journey in politics, when I was in year 12, I actually didn't know anything, and nor did I care, which was probably my fault because I didn't actively try to learn until that stage. That's a commonality with many other young people that I come across now, a lot of people don't know, and people aren't really encouraged to take the initiative, learn more, think about potentially joining one of the youth wings of whatever political party they want. I've done my fair share of recruitment for the Liberal Party in the last year, and one thing I've kind of learnt is that common theme: people slowly start to get informed when there's something impacting them. People don't really know what's impacting them until it's already passed or the bill's already been put into motion. I think if we continually get the people around us to actively tell other younger generations to make change and put their hand up and try and learn more, I think that's how we solve or chip away at solving that bigger problem.

The PRESIDENT: Who wants to jump in on this?

SAMUEL SIMMONS: It's slightly ironic coming from me because I'm still that year 12 student who's quite disengaged from politics, even though I am here today. But I think there's these challenges around just these general stigmas of working as a politician where there's large amounts of sacrifice, what impact do you actually make, and these sorts of things. I found it fascinating that two of the last four panellists were saying they started

in health and then saw these constant needs for change with recurring patients in these easily preventable circumstances.

The PRESIDENT: And you want to be a paramedic, right?

SAMUEL SIMMONS: Right, yes, so possibly following in that same path. I think seeing this, for me, my immediate response coming out of high school is that's the way I'm going to make the most change. That education through high school, like we've said, starts at Canberra in year 6 and then it's kind of lost unless you do legal. I think that continued education of the impact of the Australian Parliament in our growth as a nation is really valuable in showing that the role of politicians in our country's very valuable to young people rather than, like Kokulaan said, not finding out about how to have your impact until that bill's already passed.

PRINCESS DELANY: I think a big barrier to me that kind of made me feel not as interested in politics was not seeing a lot of people in politics that look like me, hearing people that spoke like me. I find myself sometimes so isolated when I go into political spaces because I'll be like, "Whoa, where are the women at? Where are the black girls at?" I think that's a thing for me, because I feel like, in Australia, we boast the fact that we are such a proud multicultural country, but we are not hearing from the voices of those marginalised groups. Where is our representation from our First Nations leaders? Where's the representation from our minority groups?

I think that is a barrier that sometimes stops young people from getting into politics especially because, as young people, I think that we are quite open to these different diverse groups and going on and having representation from these groups. But I think an issue that I personally feel is that, with people that are currently in politics already, there is kind of a stigma. There is that barrier between where it's like, "Hey, you kind of don't look like us or you don't think the same way as us. Maybe let's just lock the door, keep you out for a bit." I think what's super-important is that as we, as young people, are coming into these leadership positions and the tide is changing to kind of favour our views and our opinions on the world, it's important for us to have our representation out there. It is important for us to have First Nations representation and LGBTQI+ representation.

I think the way that we do that, like I've said already today, is by having accessibility. We need to have avenues for young people in regional spaces. We need to have ways for them to actually speak, be heard, be listened to, and also educated on what's going on in the political sphere. If we have leaders that look like us, that think like us, and would empathise with the values that we have, I think more young people will be encouraged to go into politics to be able to learn about what's going on in politics.

I know a big thing with me getting involved in politics was seeing young girls and young women going into political spaces, being elected into roles where it's like, wow, 50 years ago that would've been the job of a rich white man and we've got a girl out there. That's so inspiring. I think having spaces wherein we are seeing more minority groups be included in policymaking in politics is such an amazing way for us to inspire more young people to get involved in politics.

KARIN REZKALLA: Princess is also touching on a point that is also very close to home for me, and it's that idea of trust. I think especially after COVID a lot of young people had this feeling of like hopelessness and pointlessness in politics. What are they actually doing? We're locked up in our houses, we're online for school and all of these things. That trust throughout COVID that's meant to be there, meant to be established between the key decision-makers of our State and our country and the young people and just constituents everywhere, was broken or it felt like it was broken.

I think, for young people, that's another hurdle they have to jump. They have to, I guess, see beyond that and see what the politicians are actually trying to do and what their intention is. I think the more authentic and genuine that politicians can be in trying to rebuild that connection and rebuilding that trust, the more likely we're going to see students in school want to learn more about politics, people seeking out that knowledge and that way to really make a difference.

The PRESIDENT: Picking up on that, it's about politicians not telling young people what's good for them but actually working genuinely with them. India, how do we make that happen? What can we do to build a construct where politicians and young people can work effectively together?

INDIA JONES: So much. Politicians always say that to be an MP or to be a leader, you need life experience, and I think as a young person, we do have a lot of life experience. We're the ones who are bearing the brunt of the cost-of-living crisis, the climate change crisis, housing crisis, and I think involving us in that situation is so important. There are so many incredible leaders online in online forums, such as Hannah Ferguson, Grace Tame, Chanel Contos. I think it's important that leaders listen to those voices but also look at their audiences as well. There's a lot of attraction there, so obviously there's an audience and we need to look into it. There's a couple of personal experiences for me as well. When Kok and I were in New Zealand recently, it really sort of dawned on me how inclusive New Zealand is as a society. In their Parliament, they had easy-to-read bills with braille on

them, and they had tactile exhibits as well, and disability advisers that are hired by the Parliament, to make sure that it's a more inclusive space.

The PRESIDENT: A lot of signs in both English and Māori.

INDIA JONES: One hundred per cent. I think that's really powerful and something that we can definitely look towards. That's certainly something that's really stuck with me. I'm passionate about that now. We need to make it more inclusive for physical disabilities but also hidden disabilities as well, right? Another sort of personal experience for me, growing up, my dad was dealing with some substance abuse issues and drug addiction. It impacted our lives for almost 10 years. It was definitely a taboo topic growing up, "You can't really talk about that." I think it would have made a difference if I had seen a young leader or politicians talking about it, "It's okay. You can talk about this. This is a fine topic. It impacts families." Obviously, it's such a diverse issue and impacts people in such different ways. My experience is obviously so different to so many other people's. I think that's definitely a couple of things that we could look towards.

The PRESIDENT: Let us look towards them, and let's look towards the future and what the future looks like. We'll end on this session before we throw to a few questions from the audience, and that is looking at the future. I asked, I think, a dozen young people over the last two or three days what they were most likely to spend their time on and what they did with their time. These are the answers I got back: school or university or studying, social media, movies and TV shows, gaming, playing sports or doing sports practise or hitting the gym, hanging out with friends, listening to music, working, or—my favourite—eating.

You'll note that not a single person said "getting involved in politics" or "public policy" or even "voluntary organisations". The world's changed. We need more young people involved in politics. I think we'd all agree with that. Sarah Moulds gave an extraordinary presentation before about some of the strategies around that. But from the young people sitting here on the stage, if you could create a plan to get more young people involved in politics and in our democracy, what would it look like? What are some of the elements to getting young people more involved? What do you want us to do to help you? Help us help you.

SAMUEL SIMMONS: I think for me it all comes back to education of the impacts and stuff so that people can really understand the impact that they can have. I know especially coming from a regional area, I hadn't heard about this Youth Parliament thing until a few days ago when I met these guys. So there are certain things like that where I didn't know I could start having an impact already. I have loads of friends who would jump on those opportunities but haven't even seen or heard of them to be able to have that chance. I think one way is definitely expanding resources into more regional and rural areas so that more voices can be heard, because in just doing that, you're extending, per se, your talent pool to be able to encompass a greater range of gifts, abilities, views and opinions.

The PRESIDENT: Communicating with everyone.

SAMUEL SIMMONS: Yes.

NOAH SMITH: I will give a bit of a different perspective from a political party-based perspective. I think making whatever youth organisations that we respectively have into an attractive model that actively encourages people—so the more people that we have, the more likely that they will tell their mates or they'll talk about it in their little circles, and the more we kind of build. At least from the Liberal Party's perspective, our youth involvement had decreased, and so that's probably a key indicator of how, as politicians and as members of communities, we should strongly encourage young people to get involved in those types of spheres.

INDIA JONES: I agree wholeheartedly. I also think a step further is politicians should be on the platforms that young people are on, whether it is Instagram or whether it is TikTok. I think they should be engaging as well on those platforms.

The PRESIDENT: Sometimes it's pretty awkward though.

INDIA JONES: I know. Yes, sometimes.

The PRESIDENT: But we're trying.

INDIA JONES: No, yours is good, Ben.

The PRESIDENT: Stop it. But we have to talk to young people where they are.

INDIA JONES: One hundred per cent. Engage with them. I don't know whether it's like a little "Hello, fellow kids." Something like that meme.

The PRESIDENT: Welcome, children.

INDIA JONES: I don't know. Just hearing their language and sort of adapting your language to sort of mirror theirs. I think that would really help people who are in their teens and who are in their twenties and early thirties.

The PRESIDENT: That sounds rad! Noah, what were you going to say?

NOAH SMITH: Just on that social media thing, quickly, I think Steven Miles has a pretty good social media presence. I see a lot of young people that I know from Queensland talking about that quite a lot and interacting with his posts, including people that aren't members of that party or aren't even really engaged in politics at all, but it pops up on their Instagram feed and it gives them that little bit of a connection. I think creating more systems within the Parliament itself to bring young people to the Parliament and covering that financial cost, because that financial barrier is one of the biggest inequities. Whether that stops people from low socio-economic backgrounds, Indigenous backgrounds, regional and rural backgrounds—it is that cost prohibitive that stops a lot of groups in society that have historically been unrepresented from having a seat at that table.

The Parliament having the ability to fund and bring out young people to include them in that legislative process, whether that's on the construction of bills, particularly bills that impact and involve young people, and having that direct connection. I know the Minister for education has the DOVES Council, and I know you had the Regional Youth Taskforce, so stuff like that but for not just education and young people portfolios, because legislation on health, legislation on Indigenous affairs, legislation on sport, legislation on pretty much everything affects young people one way or another or will eventually affect them.

The PRESIDENT: One hundred per cent. What about you, Princess?

PRINCESS DELANY: I think kind of echoing what Sam said before, the education aspect is super-important. Like I said today, having avenues within schooling systems, changing our curriculum to cater to having a section of that to teach children about our parliamentary processes, or similar to what Kok said wherein it's having our political youth groups. For example, I'm in Young Labor. A thing that they do which I love is that, whilst we do have social events to get people involved and to bring young people in, we're also able to educate young people. We have volunteer training sessions, we have parliamentary procedure training sessions wherein we have a social setting with a casual group of friends where we can have conversations that are harder to define but are also getting educated on things that are important within the parliamentary system.

It's drawing young people in through something that is lighthearted fun that is attractive to us—so through social media, through word of mouth—but also, whilst having us immersed in that social aspect, then educating us about political matters. It's not just getting the fish; it's teaching the fish, "Hey, you're going to be food," and seasoning the fish. The seasoning of that fish is giving us the education about parliamentary procedures, educating us about what's going on with bills, what's happening in legislation, how that's impacting us and then what we can do to actually make sure it's impacting us in a way that aligns with our social and personal views.

The PRESIDENT: We'll give the last word to Karin, and then we've got time for just two or three questions from the audience. Have a think about those now.

KARIN REZKALLA: I think what everybody said sums it up very beautifully, especially that point of making democracy, making Parliament, appealing. I think what a lot of young people don't know is that democracy started out in ancient Greece, and it was vox populi. That was the mantra; it's the voice of the people. I think that's what a lot of young of people don't realise: They do have a voice and they can use it, and there are people that actually want to listen. This conference, this panel right here, is a prime example of politicians and people in power wanting to listen to us and wanting to give us an opportunity to really voice our opinions and our ideas, as we've done today, making young people realise that and realise how special and powerful what you say and what you do and what you emulate and the values that you uphold can be. Even at a small level, from local council, all the way to Federal Government, I think that's something people need to become aware of so that they become willing participants in this democracy moving forwards.

The PRESIDENT: An excellent way to draw a line under the conversation. Let's throw on the house lights and ask if there are two or three questions that anyone might like to ask. It's been a long couple of days, but we will take them.

AUDIENCE MEMBER: Just before I start, as some context, I had the huge honour and privilege to work with Princess as her youth Deputy Premier. It was a huge honour and privilege. Thank you so much for setting up this conference. I know personally what it's like not to have the special honour and privilege to physically have a voice, so I just wanted to say thank you so much for setting this up and giving everyone the opportunity to have a voice here. Just some questions to everyone here. In your career so far, what has been a moving point of your career? What's a moving point that started you to go in this direction—"I want to do all this; I want to help other people"? What was that spark that got you to do that?

The PRESIDENT: What's been the critical spark in your lives so far?

KARIN REZKALLA: I never considered politics or policy as a possible career or a pathway that I would go down. I honestly stumbled across it. For me, my mantra or my motto has always been that I want to leave long-lasting, positive change in my wake, however that may be. Working with young people like these in the panel today, and participating in talking to my local MPs and things like that, I found that was a real way where I could have change. That was a real way where I could see my impact happen and be clear. That's the way I want it to continue.

NOAH SMITH: When I was nine years old, so almost 10 years ago now, I lost my dad quite suddenly to a heart attack. He was 46 at the time, so pretty young. There was a whole range of stuff and a whole range of different systematic issues that my family kept coming up against in response, whether that was the hospital system or various other different systems. My mum stopped working to raise me and my two siblings. I was the oldest; I was nine. My younger sister was eight and the youngest was five.

She stopped working to raise the three of us. We were on Centrelink for quite some time and there were continual issues with government systems throughout it, continually getting cut off for no good reason. Then she'd have to spend a day and a half at Brookvale to talk to someone to turn it back on, or Robodebt, when that happened. A whole range of various failings of government systems, as well as a lot of my Indigenous community, myself included, were facing a lot of those systemic issues in education, in daily life and a lot of those social challenges as well. That's something that very much drove me to want to make change and use my lived experience to make that change because I know the importance of the role government plays in people's lives, particularly at such a vulnerable point for a lot of people.

A lot of people don't necessarily rely on the Government, or at least they don't think they rely on the Government, until something tragic or life-changing happens where they need that social safety net, that security. One of the major reasons we have government is to provide that safety, that security for all of the citizens in—well, this Parliament—New South Wales. That's something that I found out in a pretty harsh, quick way when I was fairly young. I want to make sure a lot of those less positive experiences—because I have had positive experiences and I have had a lot of support and a lot of privileges, like being up here on this stage, but a lot of those negative experiences are just failings of systemic issues.

That's what I want to change and that's kind of what's driven me to make that change so other young people, particularly ones going through those tragic times and going through those big life-changing events, don't have to deal with it, because it is a pain to have to wait on the phone to Centrelink for hours. So many people in my communities have had that many issues and particularly around specifically Indigenous services not always working how they're meant to work. It's just those constant issues we keep butting up against that make our lives so much harder.

The PRESIDENT: Thank you. We've got time for one more question and then we'll need to wrap it up.

AUDIENCE MEMBER: I was surprised to hear that there's a lack of civics education, because when I was in school, basically, it was a term in year 6 learning the basics of Parliament and that was about it. Do you think there would be enormous value in having a compulsory subject in high school on how policies work, how Parliaments work, how political parties work, how the Constitution works? If there had been a subject along those lines when you were in school, would that have enhanced your interest in politics?

The PRESIDENT: Who wants to jump in? Princess?

PRINCESS DELANY: Yes, I think having a subject like that at school would've been so important, because a thing that got me involved in politics is purely for the fact that I do all those content heavy—I did legal, modern and all that, and that's where I learned about the political system. Oftentimes, I speak to a lot of my friends, because I went to an all girls school, and that's already such a demographic that isn't targeted by politics: women. The thing is a lot of girls at my school often felt as though we have no idea what's going on. I know when I'd post about Youth Parliament, they'd be, "What are you even doing at Parliament? What's going on?"

I think a big thing is that if we have a subject like this that is maybe in year 9 and 10 where you're close to the end of school and you are close to voting, but you're also coming from that year 6 Canberra trip—you're right in the middle wherein you're growing your interests in different things. I know I found my personal interest in year 9 and 10, that period there. I think if we're able to have a subject in that space wherein children are learning about the political systems, you're building a group of young people who might grow into our next generation of politicians wherein they're learning about the systems that they might be working in, but also you're building an educated voter base. Because a thing I find with a lot of Australians is that most people don't care about voting. I think it's a very big trend wherein people go to the ballots and they draw a picture or whatever.

The PRESIDENT: Don't tell us what the picture is of.

PRINCESS DELANY: I think if we have an educated block of voters coming in who understand the processes of politics and are educated about who they're actually voting for from a young age, we're able to have people actually voting for a voice to speak for them, rather than just throwing their vote away. If we have that subject there, I think that'll be very vital to providing both potential politicians but also an educated voter block.

The PRESIDENT: Thank you very much. We are going to have to finish but I'm going to ask one final question to the panellists up here. When you're thinking about your future, is it possible—not definite, but is it possible that you would consider putting your hand up to run for Parliament down the line at some point? If that is possible, I want you to put your hand up.

Okay. There we are. We've got a pretty good group of young people, and I suspect we might get the other two over the line. In all honesty, ladies and gentlemen, I think you'll agree with me that the future looks very bright. We have had an extraordinary group of young people here and a really stimulating discussion. I know you'll agree with me that it has been one of the highlights of this conference, so please show your appreciation for these six amazing people.

Ladies and gentlemen, that brings to a close our third and final bicentenary conference. We set out doing these things with two goals in mind. The first was to explore the 200-year evolution of the Council—the personal and constitutional highlights, the pivotal moments of change and the radical shift from an appointed Council to a fully representative and elected house of review. The second was to imagine how the robust democracy that we exist in today might further evolve into a representative, accountable, accessible and truly dynamic Parliament of tomorrow. I hope that you'll agree that we have achieved that over the last couple of days.

Can I extend my thanks to every one of the many outstanding speakers that we've had over the last two days. They have all been outstanding, and their contributions will be compiled together into a book, which will then stand to be part of the legacy of the history of this place. Can I also thank the Clerk and Jenelle Moore, the Usher of the Black Rod, and the entire Black Rod team for their hard work in coordinating this conference. These things don't just happen, and every step of it has been perfect. I thank you both and your teams for the support that they've given. Thanks also to the stand-out AV team up the back, from CTS; the Hansard team, who have transcribed the entire conference; and parliamentary catering, who I think you'll all agree have attended to our needs very well indeed.

Finally, and most importantly, can I extend my own thanks and that of everyone at the Parliament to you, our attendees, and to everyone who has been here over the last two days. I really do hope that you've enjoyed these two days at Parliament. I hope you found them fulfilling, rewarding and interesting, and that hopefully you've learnt one or two things that you didn't know before.

The conference concluded.