

SPEAKING ABOUT THE SPEAKER

In law, proof that a custom has existed “so long that the memory of man runneth not to the contrary” supports a presumption that the custom is a lawful one. By a legal fiction, the precise date on which “time immemorial” ended has been established as 3 September 1189, the day on which Richard the Lionheart was crowned.

Politics operates to a different time-scale. If a week in politics is a long time, 30 years is an eternity. In Queensland politics, “time immemorial” means anything before Sir Joh Bjelke-Petersen became Premier on 8 August 1968. The current Premier, Mr. Beattie, was then still a student at Atherton State High School. The Opposition Leader, Mr. Borbidge, had barely reached adolescence. Prominent ALP members, like Paul Lucas and Mike Kaiser, were just starting primary school. The current Deputy Opposition Leader, Lawrence Springborg, was born in the year that Bjelke-Petersen became Premier. The House’s youngest member, and one-time aspirant for the Speaker’s job, Shaun Nelson, was not yet born.

Because so much of Parliamentary procedure depends upon tradition and convention, the customs which hold sway in the Queensland Parliament are largely those which evolved during the Bjelke-Petersen era. And even Sir Joh’s greatest admirers (if any remain) would have trouble arguing that respect for the institutions of Parliamentary democracy was a prominent feature of his premiership.

In recent weeks, Queensland political leaders on both sides of the House have called for the Speaker’s position to be made more independent from the government of the day. Attention has been drawn to the tradition in Britain’s House of Commons, where, upon election to the office of Speaker, a member resigns from his or her party. In subsequent elections, the Speaker stands unopposed as an independent. The incumbent continues in office, despite a change of government.

It is idealistic to imagine that such a convention could be adopted in Queensland. But it is not a practical possibility.

One consideration which makes it impossible is the relatively small numerical size of the Legislative Assembly, as compared with the House of Commons, and the fact that (at least in recent times) governments seldom secure anything better than a very slender majority. The sheer size of the House of Commons, with some 659 members, makes it possible for one of them to be politically neutered, without affecting the balance of power - Mr Blair presently enjoys a majority of 175. That is not presently possible in Queensland; nor is it likely to become possible in the foreseeable future.

There are also practical difficulties in identifying a member who would be both competent and willing to accept such a role. The job description must include, as a minimum, a detailed knowledge of the rules of Parliamentary procedure, a commanding personality, and a capacity to act impartially. A loud voice is also an advantage. A Parliamentarian who satisfies these criteria is likely also to have leadership or ministerial ambitions, and may not be attracted to the idea of becoming a political eunuch.

Nor is it necessarily desirable that any elected member should be barred from participation in party politics. Some politicians are elected on the strength of their individual personalities and reputations; most are entirely unknown to the voters, and are elected as representatives of a particular party. It is essentially undemocratic to tell the citizens of an electorate that, although they have chosen to be represented by a member of one party or another, they are to be deprived of such representation, and of any opportunity to make a different choice at the next election. One also wonders how effective a truly independent Speaker could be in representing the interests of his or her electorate, without a voice in the party room or the corridors of power, and with a gag on participation in any partisan political debate.

Yet anyone who has witnessed proceedings in Parliament, either in Queensland or elsewhere in Australia, would surely agree that some reform is necessary. This is not to criticise the present Speaker, or his recent predecessors, who have attempted earnestly to exercise their authority with non-partisan fairness. It is, rather, a reflection on the culture of Australian politics - and especially Queensland politics in the post-Bjelke-Petersen era.

The only obvious solution is entirely inconsistent with Westminster traditions. But, given that Westminster traditions seem to have lost much of their efficacy in the long journey from London to Brisbane, perhaps it is time to find our own home-grown solution to regulating Parliamentary proceedings.

Why not have a Speaker who is not an elected member of the Legislative Assembly, but who is appointed with bipartisan support from outside Parliament? If it is provided that the nomination must be moved by the Premier and seconded by the Opposition Leader, and elected by (say) a two-thirds majority of the House, any charge of political partisanship would be unsustainable. In negotiating the selection of a suitable candidate, one would expect leaders on both sides to look for a person who has the right mix of qualities: perhaps a retired politician, who is respected by both sides of the House; or a retired Judge; or a person who has achieved prominence and respect in some other walk of life.

Of course, such a Speaker, not having been popularly elected, could not have a vote - even a casting vote. But there is a simple solution to this, which has been adopted for both the Australian and US Senates. If the voting on any motion is equal, the motion is taken to be lost.

The concept of a non-member presiding in a legislative chamber is not without precedent. The Vice-President of the United States presides in the US senate, but does not have a vote. Because the Vice-President might be thought to have an interest in Senate proceedings to impeach the President, the Chief Justice presides, but again does not have a vote.

The chair of the House of Lords, known as the "woolsack", is occupied by England's highest Judge, the Lord Chancellor. Although technically a member of the House of Lords, and a nominee of the Government, the Lord Chancellor is politically impartial, and ordinarily does not exercise a vote on contentious legislation.

It may be argued that a Speaker who does not have a vote could be entirely impotent. It is true that a government with a working majority in the House could stifle such a Speaker's attempts to conduct proceedings impartially, by using the weight of numbers to dissent from the Speaker's rulings. But the moral authority of a Speaker, nominated in the manner suggested above, would make it very dangerous for any government to attempt to over-ride the Speaker.

The election of such a Speaker should take place mid-term - say, more than 12 months but not more than 24 months after a general election. And, regardless of the outcome of an election, the Speaker should continue to hold office until a new Speaker is selected. If the current office-holder is nominated for a second term, some independent person (such as the Chief Justice) should preside for the purposes of the vote. A person elected as Speaker should be required to resign from membership of any political party, trade union, employers' or professional association, or other lobby group which is politically active. Once elected, the Speaker should only be removed for proved misconduct or incapacity, by a two-thirds vote of the House; and again, an independent person (such as the Chief Justice) should chair any such proceedings.

It probably remains a pipe-dream to hope that such a reform will receive, as would be required, support from all sides of politics. Governments tend to have very short horizons of foresight, and do not think about the prospect that they may one day find themselves in opposition, and be grateful of any procedural reform which may enhance their ability to be an effective opposition. Those who occupy the opposition benches take a longer-term view: they confidently expect to be the next government, and look forward to steam-rolling their own policies through the Parliament.

Yet we currently have a rare window of opportunity, whilst all major parties are led by fundamentally decent individuals, whose commitment to the process of Parliamentary democracy is more than mere lip-service. It is just possible that such a reform could be achieved with the imprimatur of people of the calibre of Peter Beattie, Rob Borbidge and David Watson.