

## *Editors' Introduction*

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In the United Kingdom (UK), backbench rebellions have become an increasingly frequent feature of parliamentary politics. According to Cowley, government Members of Parliament (MPs) voted against their party line in 35 per cent of Commons divisions from 2010 to 2015 (Cowley, 2015). That was an increase of seven per cent from the previous parliament under the Labour government of Tony Blair and Gordon Brown (Cowley, 2015). Such rebellions are unheard of in Australia. In stark contrast to the UK, strong political party discipline and cohesion effectively exclude all dissent on the parliamentary floor.

The articles in this special section explore how this system of strong party discipline and cohesion has affected the way in which Australian parliaments perform their oversight functions.

Fergal Davis's article examines political rights review. Davis digs down into the workings of that form of human rights review in Australia. He identifies features of the Australian political architecture – in particular the strong system of party discipline – which are impeding the effective operation of political rights review. Davis does identify potential for strengthening the system of political rights review but ultimately cautions that any such model must be designed with an eye to the existing political architecture.

Strong party discipline is also evidenced in John Halligan and Richard Reid's article, which examines 'dissensus' in the parliamentary committee system in Australia. Through analysis of over forty years of committee reporting, Halligan and Reid highlight the increasing trend towards the publication of minority, or dissenting reports by committees. This, it is argued, is in part due to the strong party discipline. This leads Halligan and Reid to question whether parliamentary committees can still fulfil their objective of scrutinising parliament in the absence of consensus in the parliamentary committee system.

Adele Lausberg's article examines one of the areas in which strong party discipline has given way to collaboration between members of different parties. Lausberg argues that cross-party collaboration has, for the most part, been used by women politicians to advance socio-moral issues which might attract a conscience vote, such as those relating to euthanasia and abortion. Whilst this has only happened on rare occasions to date, Lausberg argues that an increase in the number of women (and feminists) in parliament will enable cross-party collaboration to achieve results.

Whilst cross-party collaboration may allow individual politicians to break party ranks in order to engage in bipartisan behaviour, bipartisanship itself does not necessarily benefit the parliamentary process. This is demonstrated in Gabrielle Appleby's article, which reveals the darker side of bipartisanship. Through analysis of what she terms the 'egregious examples of abuse of delegated authority by the Government in recent years', Appleby concludes that bipartisan support for delegated legislation has diminished parliament's role in scrutinising the executive. For Appleby, this creates the need for courts to take an unorthodox position and intervene where typically they would not have interfered in the relationship between the executive and the legislature.

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The four articles in this special section show that there is more to the question of political party discipline in Australia than initially meets the eye. Party discipline is unacknowledged in law – but its existence is impacting sharply upon the scrutiny of legislation.

The papers in this Section were initially presented at a Workshop on Party Discipline and the Parliamentary Process hosted by Gilbert + Tobin Centre of Public Law UNSW and the New South Wales Chapter of the Australasian Study of Parliament Group in the Parliament of NSW in June 2014. The editors are grateful to the workshop participants for their input. In particular we wish to thank the Hon. Don Harwin MLC, President of the Legislative Council of NSW, Mr Bruce Notley-Smith MP and Mr David Blunt, Clerk of the Parliaments and Clerk of the Legislative Council for their support.

#### *References*

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