
It was the Revolution of 1688 that gave to Great Britain freedom and efficiency together, because it tipped the balance of power permanently on the side of Parliament.

— Trevelyan, A Shortened History of England

Recent events in Australia suggest that Trevelyan was wrong. The balance of power is not on the side of Parliament.

On 17 October the Senate debated a motion to establish a new select committee to examine issues related to in-vitro fertilisation and human embryo experimentation. During that debate, Senator Peter Walsh, speaking on behalf of the Executive Government, questioned the justification for another select committee and said:

I do not accept the proposition, which was accepted by the previous Government, that the amount of money appropriated for the Parliament is a matter for the Parliament to determine. It is a matter for the Executive to determine.³

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¹ Trevelyan (1942).
² Senator for Western Australia.
In relation to the proposed select committee, he made his threat more explicit, and linked the Government with it, by saying:

That is my position and that is the policy of the Government … to the extent that this adds to the demands for funds for the Senate and for Senate committees, I certainly give no guarantee that that demand will be met.4

Senator Walsh raised clearly the issue of the funding of the Parliament by the Executive Government in Australia. He raised for examination a delicate relationship that has existed for 85 years between the Executive (representing the Crown) and the Parliament elected by the people, a relationship complicated by the fact that members of the Executive are also members of the Legislature.

He focused attention on the Parliament’s need to be strengthened against attack by the Executive. Professor Gordon Reid, then deputy vice-chancellor and professor of politics at the University of Western Australia, now Governor of Western Australia, observed in a submission to the Jessop Committee in 1981:

In the context of the vast scale of government we now practise in Australia, with the extensive accumulation of enacted legislation and the widespread delegation of authority to officials, the elected Senate needs to maintain, even strengthen, its procedures for scrutiny and enquiry into the affairs of the Executive Government. That is becoming increasingly important to the people of Australia.5

The relationship between the Crown and the Parliament in England was settled after the turbulent years of Stuart rule and formalised in the settlement reached after the ‘Glorious Revolution’ of 1688. This settlement established that the Crown had to come to the Parliament for its monies and no ruler or government since then in a Westminster system has been able to depart from that practice.

What has never been settled is an arrangement for the financial support of the Parliament itself. The question has assumed more importance as the cost of legislatures has risen and the roles of legislators have increased.

What emerged in the seventeenth century as the sole power of the legislature to authorise supply for the Crown has been eroded gradually as disciplined parties emerged and the Executive came to dominate the Legislature. In a sense, the Executive has replaced the seventeenth-century Crown in its domination of the Parliament. Further, although the Parliament won important controls over the Crown’s resources, it failed to distinguish its own resources from those of the Crown and allowed its own requirements to be met by Treasury.

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There is at least a ‘creative tension’ between Parliament and Executive, and clearly any move to ‘starve’ a Parliament would precipitate a major constitutional crisis.

The Executive sometimes argues, as did Senator Walsh, that it has sole financial responsibility, including responsibility for the Budget and for the revenue. Such an assertion is incorrect. The Executive prepares and presents the Budget, other appropriations and revenue proposals—but it is the Parliament that approves or disapproves them. It is the Parliament that bears ultimate constitutional responsibility for them all.

Between Parliament and the Executive two extreme positions could be envisaged. On one hand, a reckless and spendthrift Parliament could indulge itself unreasonably, and demand that the Executive fund and bear responsibility for those indulgences. Such a course would scarcely accord with notions of accountability and reasonableness. But on the other hand, the situation could arise where an Executive, in pursuit of total dominance of the political institutions of the nation, determined to starve a Parliament into submissive obedience by withdrawing from it the funds it requires to discharge its democratic functions and duties.

In between is a whole series of more reasonable positions that could be negotiated between the Executive and the Parliament to ensure that the legislature received adequate funding for its task within spending guidelines acceptable to the Executive. Between parties of goodwill and good sense, a middle course will always be found. What could be dangerous and difficult is the possibility of a confrontation should views like those of Senator Walsh be pushed to their extreme.

The Senate recognised this problem several years ago. As a result of a landmark committee report brought in by Senator Don Jessop, an agreement was reached with the Fraser Government that the appropriations for the Parliament would be presented in a separate Appropriation Bill, and that the size of the appropriation would be settled by negotiation between the two parties.

But the issue itself remains unresolved, and it is the issue that has re-emerged. If one looks to find some constitutional principle or convention that requires that the Legislature control its own finances, one is in difficulty. In Australia the Executive’s dominance is reinforced by Section 56 of the Constitution, which provides that no monies may be raised by Parliament unless the purpose of the appropriation has been recommended in the same session by a message from the Governor-General. Since it is widely accepted that the Governor-General will act on the advice of ministers, no message authorising expenditure can come to the Parliament except with the concurrence of the Executive. Further, it seems that
the Parliament itself cannot increase the amount to be appropriated over that
specified in the Governor-General’s message without a further enabling message.
Finally, it is possible that the courts would refuse to rule on these matters and
might refer any challenge back to the Parliament for resolution.

Parliaments in other democracies have faced the same problem, and have
devised a variety of solutions. The British House of Commons is now funded by
a House of Commons Commission established under its own statute. In France,
funding is determined by a conference of the presiding officers and magistrates
of the Court of Accounts. In Israel, the budget for the Legislature is the sole
prerogative of the Knesset itself. And so on.

Following Senator Walsh’s outburst, Senate Estimate Committee A saw
fit to discuss the issue in its Report to the Senate of 11 October 1985 and to
recommend that the Senate agree to a resolution calling for negotiation and
agreement to resolve any disagreement. On 2 December the Senate adopted this
recommendation. While the immediate threat of crisis was averted, the issue
behind it remains unresolved. There is still no right of the Parliament to a penny
of funds, and the Parliament is still exposed to the threats posed by the Peter
Walshes of the world.

So back we come to Senator Walsh. Just in case his point was missed,
the Honourable Senator finished his 17 October speech by saying:

    Finally, I explicitly do not accept the proposition that the Parliament determines
    how much money the Parliament will get. The Executive Government has the
    financial responsibility, and in the end the Executive Government will determine
    the question.6

If this view of the Hawke Government (or of any other government) was
to be pressed we would be in for a major constitutional confrontation.
It would be 1688 all over again. Meanwhile, reason and good sense—not any
constitutional safeguards—are what avoid such a crisis.

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6 Walsh, Senate Hansard, vol. 11, 1985: 1,425.