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Stakeholder, Shareholder and Citizen: A different approach to the analysis and critique of democratic government



Fulbright Flinders University Lecture Series 1

Professor Howard Schweber

Distinguished Chair in American Political Science

Welcome



Professor Michael Barber FAA, FTSE, FAICD
Vice-Chancellor and President
Flinders University

I am delighted to present the lecture by Professor Howard Schweber as part of Flinders University's involvement in hosting the Fulbright Flinders University Distinguished Chair in American Political Science.

Flinders University is renowned for its strong international links with universities and research institutions across North America and Asia, recently establishing the Centre for United States and Asia Policy Studies.

The Fulbright Flinders University Distinguished Chair in American Political Science enhances Australia's national engagement with the United States, an engagement for which the Fulbright program has been such a successful and distinguished instrument.

The lecture 'Stakeholder, Shareholder and Citizen: A different approach to the analysis and critique of democratic government' presented by Professor Howard Schweber, the first Fulbright Flinders University Distinguished Chair in American Political Science supports Flinders vision to be globally connected.



Professor Phyllis Tharenou
Executive Dean
Faculty of Social & Behavioural Sciences
Flinders University

The Faculty of Social & Behavioural Sciences is proud to be the host Faculty for the Distinguished Chair program. Over the course of this program, the Faculty will host a series of distinguished scholars, each contributing to the comparative political analysis of Australia and the United States, and each adding significantly to the teaching and research profile of the Faculty.

Through events such as lectures and colloquia, these scholars will provide an invaluable resource to undergraduate and postgraduate students across the Faculty, and will help to foster research links between Flinders and universities in the United States.

As part of the Distinguished Chair program, a series of publications will provide a worthy record of the work of each Distinguished Chair. Each publication, a transcription of a lecture, will provide a resource for future students, and will contribute to the ongoing dialogue and cooperation between the United States and Australia.



Professor Don DeBats
Head, American Studies
Flinders University

Each of the Fulbright Flinders University Distinguished Chairs in American Political Science will make an important contribution to the scholarship on the United States that we continue to develop at Flinders University.

While at Flinders, Professor Howard Schweber explored the idea of representation, a core concept underpinning both American and Australian understandings of democracy. In this lecture Howard presents three different models of representation, asking whether the "Citizen Model," the most desirable model, is today realising its representational potential.

He points to the problematic roles played by modern political parties and voting systems in distorting that ideal. Electoral reform and party reform, he concludes, are necessary -- informed as never before, by a proper understanding of citizen representation.

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Introduction



Professor Howard Schweber
Fulbright Flinders University Distinguished Chair
in American Political Science

January – June 2012

My research during my stay in Australia has been about democratic representation. It started out as a straight-forward comparative study of Australian and American political practices but rapidly branched into a more theoretical study: what do we mean by representation? And what purchase can we get on ideas about democracy, democratic process and democratic practice by focusing on the concept of representation?

For many reasons, democratic practice is a hot issue right now. In some parts of the world, new constitutions are being written. In others, whole systems are being radically reformed. It's probably not a coincidence that in places where reform is not happening – such as the United States and Australia – we find extremely high levels of dissatisfaction with the political process. In other words, in places where deep reforming is not happening, possibly it should be.

PROFESSOR HOWARD SCHWEBER, MA (Chicago), PhD (Cornell)

Professor Schweber received his PhD in Government from Cornell University in 1999 and an MA in History from the University of Chicago after spending five years practising law. He teaches courses focusing on constitutional law and legal and political theory. Professor Schweber is the author of *Speech, Conduct and the First Amendment* (Peter Lang Press 2003), *The Creation of American Common Law, 1850-1880: Technology, Politics, and the Construction of Citizenship* (Cambridge 2004), and *The Language of Liberal Constitutionalism* (Cambridge 2007), as well as articles, essays, and book chapters on a variety of related topics.

Professor Schweber's current areas of research include comparative analyses of different constitutional systems and the construction of "public" and "private" as categories of legal and political discourse. He is a member of the Board of Directors of the Wisconsin Center for the Study of Liberal Democracy and in the past has been actively involved with the Center for Civic Education's *We the People* program. Professor Schweber is regularly featured on Wisconsin Public Radio programs and gives frequent newspaper and television interviews. In 2004 he was the recipient of the William H Kiekhoffer Award for Distinguished Teaching. Professor Schweber has also twice been selected as the Pi Sigma Alpha Professor of the Year, and received the Stephen and Marjorie Russell Award for Outstanding Teaching at Cornell University.

Stakeholder, Shareholder and Citizen: A different approach to the analysis and critique of democratic government

“ The idea of ‘representation’ is central to discussions of democratic government, economic organisation, and policymaking. Yet the meaning of ‘representative’ is subject to great disagreement: Who/what is represented? What is the activity of representation? What is the relationship between the representative and the represented?

Within a single system of democratic government, multiple versions of ‘representation’ are frequently at work. Applying classical models to modern political systems including Australia and the US, Professor Howard Schweber examines a different approach to the analysis and critique of democratic systems. ”

Presented by
Professor Howard Schweber
on 29 May 2012

The Concept of Representation: Mapping out Ways to Categorise and Critique Democratic Institutions

If we think about discussions on the topic of democracy currently taking place around the world – for instance, the European discussion of democracy deficit, the Eastern European discussions of democratic consolidation and constitutional design, the various debates about the democratic or undemocratic roles of electoral systems – in terms of the deployment of conceptions of representation, we are rewarded with an added purchase. In fact, we find ways to think about categorising and critiquing democratic institutions that would otherwise be non-obvious.

If we then turn those insights on to our own institutions, we may be confronted by an important question: are our political institutions serving us in the way that we would like? And to the extent that the answer is ‘not entirely’, or perhaps, ‘not at all’, how much is because of a certain tension in our notion of what we think representation is about and about the way representation is actually undertaken. It’s worth noting that representation is one of ‘those’ words. Everybody wants to be representative.

All forms of government claim to be representative... and not only forms of government. If you open the business journals, they’re full of articles on business governance and the role of representation: representation of interests, representation of shareholders, representation of minorities, representation of local communities. In modern times, almost everybody wants to be governed by representatives.

Every political group or cause wants representation, every government claims to represent. But the same time, we are troubled by the difference between sham and real representative institutions and by the many competing ways representation can be institutionalised. **‘Representation’ goes all the way back to its Latin roots. While the Greeks had no word for representation, the Latin word ‘representare’ meant ‘to make present that which is absent’.** So representation is always about leaving something out. It’s not only about what is included, it’s about what is not – and the analogy I like is contained in this following passage from *Sylvie and Bruno Concluded* by Lewis Carroll, one of the most profound political thinkers I know of. The dialogue goes like this:

‘That’s another thing we’ve learned from your nation,’ said Mein Herr, ‘Map-making. But we’ve carried it much further than you. What do you consider the largest map that would be really useful?’

‘About six inches to the mile.’

‘Only six inches!’ exclaimed Mein Herr. ‘We very soon got to six yards to the mile. Then we tried a hundred yards to the mile. And then came the grandest idea of all! We actually made a map of the country, on the scale of a mile to the mile!’

‘Have you used it much?’ I enquired.

‘It has never been spread out, yet,’ said Mein Herr: ‘The farmers objected: they said it would cover the whole country, and shut out the sunlight!’

‘So we now use the country itself, as its own map, and I assure you it does nearly as well.’



A map is a perfect example of representation: you don't include everything, you choose what is relevant; and you choose different things depending on the purpose for which you are making your map. Economic maps are very different from political maps, which are very different from terrain maps or altitude maps, population maps or opinion maps. When you choose to represent a terrain, you do so on the basis of having first determined what you care about, and then leaving out the rest. You create a representative version of the landscape that shows what you care about. In political representation, that is equally true. **If we think of representation in terms of classic Roman republican notions, in which freedom means not to be ruled by foreigners, the key is to be ruled by someone like ourselves, someone not foreign (however you define 'not foreign'). That approach will lead you to map your idea of representation in certain ways.** So one suitable idiom, or metaphor, is that representation is map-making and a critical question is not only what you want to leave in, but also what you want to leave out.

My second metaphor makes exactly the same point in a slightly different way: the idea of the representative sample. Any representative sample involves first what we call operationalising our variables: figuring out first what we care about, and then figuring out how to measure and express it. All of which is a matter of excluding information. And once we've decided what we care about and how to measure it and how to express it, then we make our representative sample.

The representation is not the thing that it represents, nor is it different from that thing. It takes a very strange middle path, a middle space, just like a map. A map is not the space that we are travelling in – but it's not different from that space either. If it were, it wouldn't work.

Three Basic Questions about any Representative System

As soon as we start thinking about representation (in any context, literary, artistic, cartographical, or political) in terms of what has to be left out in order to make it work, I think we begin to realise how important those choices are – and how problematic if in our institutional design we are leaving out things that in our normative philosophies we would actually prefer to see included. So let me try and break this down a little bit more concretely.

The three basic questions about any representative system are:

1 Who (or what) is represented?

For example, we may represent identities, or interests; we may represent world views, or persons.

2 What is the activity of representation?

Is it a matter of choosing people who will engage in deliberation and discussion on our behalf, or is it a matter of choosing people who will engage in bargaining on our behalf? Do we have representatives to monitor what we do, or to govern what we do?

3 What is the relationship between authorisation and accountability in the representative system?

The usual distinction is delegation vs agency. Are our representatives entrusted to act on their own judgement, wisdom and of their own accord, or do we ask them to be our agents and carry out what we would have done. And do we ask them to act for us, or to speak for us?

So there are three broad axes along which we can place differences in representative systems. Here I can point out alternate ways of thinking that you might not ordinarily have thought of as representative. But they are in fact exemplars of extreme cases.

Then I'll move to a consideration of some classic models of political representation, and finally, apply the insights of that discussion to a critical analysis of the situation in Australia and America. Perhaps that will provoke a question: just how satisfied are we with the fit between our map and the thing we think we are mapping?

The shareholder model

You may not think of business corporations as representative, but that is what they claim to be. Decision-making in a publicly-traded corporation is, explicitly, a matter of collecting the wills, aggregating the preferences of a group of people joined together using a certain calculus, and balancing out winners and losers. This determines the board, or the executives, or the CEO, who will then go on to make specific government decisions. And that's not some novel insight. If you go back to the 19th century, when business corporations first emerged, this was exactly the notion. The shift from British Chartered Companies to general business corporations (which really began in the United States in the 1850s, and later took off in England in the 1870s and 1880s) is based on the idea of pulling capital to allow private groups to do the kinds of public purpose tasks that previously only governments could do because it serves public purposes. Capital was organised in what we would now call a representative kind of way.

Railroads were the particular enterprises that started all this rolling. But shareholder voting is not quite like political voting. It's not one man, one person, one vote. It's one share, one vote. The phrase we use to identify what's going on is 'voting your shares'. In other words, in the most literal possible sense: 'money talks'. In a shareholder system, what is represented is money.



The shareholder, the actual person is really the carrier, or the vehicle, for bringing the money into the shares. The more shares you have, the more votes you get, the more influence you have over the outcome. If you think of the question back-to-front it becomes: how did the policy of this corporation become determined? The answer is: through the indirect representation of the largest block of money involved in its ownership. That is not intuitively strange, applied to a business corporation but the more you think about it the more it becomes interesting.

In the first place, we assume the authority to control something comes from owning it. In other words, I should be allowed to decide what this corporation does because I own more of it. This sounds intuitively sensible applied to a corporation – but what if applied to a country? Or town, or even a university? Suddenly you might be much less comfortable with the idea.

Well naturally, that's because these are private business entities, not public entities. **Your comfort level changes when you realise we entrust private business entities with a huge range of public tasks.** There are explicit cases of privatisation: of prison systems (in which Australia leads the world, I might point out) and in

Latin America private companies that have taken over the drinking water. We might think of these obvious cases as public goods under private control. But also, much more generally, the existence of a private banking system means that massively important public functions are carried out by private corporations whose policy choices are made on the basis that money talks. In the most literal sense.

To see that notion given flesh and walking around, check out the US Supreme Court case that says a corporation has freedom of speech. What message does a corporation express? Whatever message the largest block of shares wants to deliver through its elective representatives on the board. Does this matter? You may think business corporations are run for profit, so who really cares who is on the board? In fact, it matters an enormous amount. It turns out that who is the CEO in particular matters as much, perhaps, as it matters who is the president of a country, or the president of the university.

A recent study jointly conducted by two researchers from Harvard and NYU is getting a good deal of attention back in the US. I find it absolutely fascinating: a study of CEOs' behaviour controlled for one interesting variable: military service.



It turns out that in the United States, over a 50-year period, CEOs who had served in the military have very markedly different patterns of conduct than do CEOs who had not served in the military. CEOs who were veteran citizens show less than half the rate of fraud, financial malfeasance and corporate irregularities. They perform much better during bad times in terms of diminishing losses, although they show much less exciting performance during boom times. They're risk averse, they're careful, they follow the rules.

You may conclude from that anything you want: you may think it's a good thing or a bad thing. It's just one nice illustration of the fact that it matters who controls corporations. And so if you believe that the corporate sector of our economy is significant, you should think about the manner in which that leadership is representative, and of what it is representative. After all, corporations are not natural objects. They are creatures of law, created by political entities. I've always loved it when someone talks about the natural rights of corporations. It has me scratching my head – they exist by acts of legislation after all.

So who, and what, is represented? I've suggested – only slightly tongue-in-cheek – that the answer is money. What is the activity of representation? The unconsidered consequences of structural design (in the United States at least, I don't know if this is true in Australia) are that if a CEO were to act in the way that failed to maximise corporate profits, the shareholders could sue. This is not a matter of agreement or social attitude; structurally, corporations are designed for the purpose of making a profit, pulling capital to invest to create profit. This is not a criticism: that's what they are for. That's what they do. This means that by structural design, the only legitimate activity of business corporations is the pursuit of profit. And this is fine... until you consider the fact that we're talking about a system representative of a very large number of people's pension funds, for example, or urban bonds, or school bonds, or labour union investments with profound policy outputs.

The corporations are not encouraged or pressured, they're required to perform that representative conduct, keeping only a single law in mind. This is a very, very narrow and constraining model of representation of economic interests.



What relationship is there between authorisation and accountability? Almost none. **The notion of shareholders controlling corporate boards is, at least in the United States and (I suspect) here as well, something of a joke.** The vast majority of corporate shares are owned blind. I have an investment in a retirement account; my retirement account invests in a number of mutual funds; those mutual funds between them invest in, say, 80 different corporations. I freely confess I have never even tried to find out what was going on at all the shareholders meetings of all those 80 corporations. Were I George Soros, I'm sure I would behave quite differently, but the vast majority of the investors in the market aren't George Soros and don't behave like him. So the only kind of scrutiny is, in political terms, international relations: the markets. What do competing corporations look like compared to yours? There's almost no internal governance of corporations, in terms of the shareholders whom they claim to represent.

Many corporations don't work that way: credit unions, community-owned organisations and worker-owned organisations and lots of other

corporate forms – but the standard business model of the publicly traded corporations continues to use what on close examination turns out to be a remarkably strange model of representation. Now this only matters insofar as we insist on ascribing to it a representative quality. But we do.

The Stakeholder Model

What about a different model? If the shareholder model is too narrow, if we object to representing only money in proportion to its presence, if we object to the constraint of only seeking profit, let's try a different model. At the other end of the spectrum is the stakeholder model. John Dryzek, from the Australian National University puts it this way: 'collective outcomes are legitimate to the extent that all those subject to them have the right, capacity and opportunity to participate in consequential deliberation about their content.' This approach is very big in discussions of transnational governance, NGOs, non-elective or non-political governing institutions, particularly in Europe.

The idea that those who are affected by decisions should have a say in outcomes is very popular amongst political writers and is at the opposite extreme to the shareholder model.



The shareholder gets a say in the outcome by owning a piece of the company, the stakeholder gets a say in the outcome by being affected by the company's actions. **One analogy I like is: would we like the rules of the road to be made by people who drive the cars or pedestrians?** Careful, it's a trick question!

So what's wrong, if anything, with stakeholder representation? Isn't that the solution? We might say, well, if corporations want to do something, perhaps representing stakeholders is too much of a stretch. But if the government wants to do something, surely anyone who is affected by the outcome should have a say in it. This approach certainly appeals to our notion of fairness, doesn't it? It gets us out of the uncomfortable idea of arbitrary rule: being governed by actions that affect us or over which we have no control. For example, by this logic we ought not to have strict rules of citizenship restricting who participates. If you live in a country, and if you are affected by its policies, you should be able to vote on them.

The problem is, nobody means this. I can prove to you that nobody means it with a very simple example: someone in the country for a period of years whom you would never, ever want to participate: foreign invading troops.

No one says that foreign invading troops should be able to vote in the elections of a country they're invading, even though they might be there for a period of years. No one really means it. No one really thinks our trading partners should have a say in our economic policies. If, for example, one of our trading partners has a population of 1.3 billion and our own population is hovering somewhere on the 25 million mark – no one really thinks the eligibility to vote to determine Australia's economic policy should include all adult Chinese. So we don't really mean that, right? Not really. We do mean something, though.

And what we do mean pushes toward the notion that something other than just the people who own a share in the company should be represented. For example, there are people who talk about ways to represent future generations. Somehow incorporating future generations into our policy-making process would be a good thing, normatively speaking. There are people who argue we should incorporate non-human interests such as nature and the environment. The more things you want your map to include, the more the representation of those things becomes difficult to pin down, and slippery.



And in fact these ideas are not always recognised for what they are; it certainly seems to me that if there are people who talk about representing future generations, there are even more people who talk about representing past generations.

Every time you hear the appeal to tradition, what we owe to our ancestors, or how the constitution should be understood in its 'original sense', what you're hearing is someone speaking on behalf of the past, which is not unreasonable, but it's not obvious either.

A citizen-focused model

So between shareholders and stakeholders, nobody really means either model in its pure form. No one really thinks we should have no public regulations over corporations, no one really thinks that everyone affected by economic decisions should have a say in the outcome, not really. But these two words do identify these two poles on a spectrum.

And somewhere in that space in between, we have citizens. **It is the citizens we really care about when we want to decide who will be allowed to participate in political decision-making in a state that is backed by its potential to use coercive force.** We want this participation to happen in a way we will recognise as democratic, or liberal, or legitimate. That statement, of course, raises the question: is our own system living up to those demands?

Guiding Ideas for Australia: Locke and Madison

And to attempt to answer that question, we can look at this country. Australia was formed at the end of the 19th century and the guiding ideas of that formation are those of the English and American writers of the 19th century.

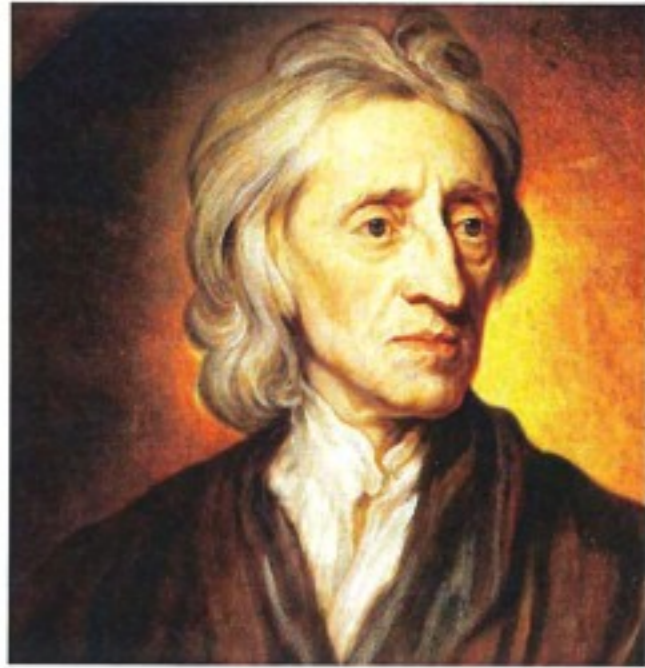
Let me read you a short quotation from John Locke, probably the paramount figure in Anglo-American liberal philosophy: it all goes back to Locke's social contract. 'Legitimate government is governed by consent. That government is legitimate which governs by the consent of the people.' Locke said the individual chooses to be part of the state because it serves his or her interest. This is bedrock stuff for any Anglo-American political theorist and it was very much in the minds of the framers of the Australian constitution. But Locke had a very stringent notion of what representation was about – and it's not one we find particularly familiar. **The thing Locke was most afraid of was that representatives would come into office with prior commitments.** He was most afraid that someone would come into Parliament having said 'I promise to vote for policy x or policy y'. If that happened, said Locke, it's over – and you'll find you're having a rebellion because you have corrupted your Commonwealth.

Speaking about the Executive, the King, here's how he puts it: 'He acts contrary to his trust, when he employs the force, treasure, and offices of society to corrupt the representatives. How? By openly pre-engaging the electors and prescribing their choices, those he has, by solicitations, threats, promises, or otherwise, won to his designs.'

'Why is that corruption? Because the people who choose representatives could do it for no other end but that they might always be freely chosen and so chosen freely as the necessities of the Commonwealth and the public good should upon examination and mature debate be judged to require. Those who give their votes before they hear the debate, and have weighted the reasons on all sides, are not capable of doing so.' **Our democratic system is based at its core on a philosopher who said the whole thing fails if anybody ever makes a campaign promise.** That's it, it's corrupt, it's over, it's not democracy. Give up and have a rebellion and start over. The legislature, the soul of the Commonwealth has been corrupted and failed. Why? Remember those three questions I asked at the beginning: Who or what is represented? What's the activity? What's the relationship between authorisation and accountability?

Well, Locke's model of representation is, first of all, purely deliberative. The activity is free, patient deliberation with no preconceived commitments, focused only on the question: what does the good of the Commonwealth require? Whom or what do they represent? The Commonwealth, this collective entity. So the second form of corruption would be anything like a local representation, such as federalism. Representing this city or that state is anathema. Locke is not actually very clear, he speaks of elections but ultimately, this goes back to what justifies rebellion. He's playing with live ammunition, if I can put it that way.

Locke laid out what, in his view, are the minimum conditions for acceptable democracy, and they are, if you think about it, widely more demanding than anything we take seriously today. Which is interesting.



John Locke

It's not as if Locke was unfamiliar with how things can go wrong. He lived through one English revolution, and had memories of a much bloodier one not that long before. This is not a philosopher like Descartes who wrote his philosophy lying in bed in his pyjamas (I always think that was a good job). But that's not Locke, he was in the thick of it.

That's one model, a very pure model of untrammelled deliberation, by a person whose only goal is to speak for the good of the whole. Let's jump forward a little bit. **At the opposite extreme is James Madison. Madison tried to make democracy safe for the unvirtuous.**

If we know that people are greed-driven, vocal, contentious and sometimes dishonest, how can we nonetheless make democracy work? The answer is by balancing the branches of government against each other, balancing interests against each other, balancing factors and so on. How does Madison tackle this discussion?

In a couple of ways: first of all, Madison made a point that I find central but is often overlooked; which is, that in any system of government – and for that matter in any system of any corporation, any civic association, and most social organisations – there's more than one idea of representation at work at a time.



James Madison

We don't just balance interests, we balance models. For example, in the Australian system the justices of the High Court are not elected directly, but they are indirectly elected because they are appointed by people who are elected and who may pay a political price for appointing people whom their electorates dislike.

In modern times, as we move away from the era of Royal involvement, the government is appointed by consent of the Prime Minister, who is the standing embodiment of responsible government: a very different but equally important form of representation.

How do you choose this government? Well, your Senate and your House use different systems. There is the federal system, representation of localities and the Senate, representation of population: each of those is representing a different thing in a different way. **That was Madison's insight. You design a government by deliberately using different kinds of representation and balancing them against each other.** And the reason this works is because of what Gordon would call the homogeneity of power.

In the British system, the different pieces of government represented different pieces of society: the Lords, the Commons, the Church, the Court, each represented different pieces of the society.



The American assumption was that all power comes from the homogenous 'people', which means that all distinctions within the government are artificial, and artificial by design. You choose how you want to have representation or what you want represented, and you also choose how to balance them against one another. Madison's huge and critical insight was that none of this is natural or given, none of this is dictated by the society. We make it and when we make it we should be cognisant of what we are balancing and we should try to have (and he was very explicit about this) different forms of representation to balance one another. **Unfortunately, Madison got it wrong. His view was that the House of Representatives would be full of high-minded people who would represent the common good, while the Senate would be the place where local and parochial interests were heard.** It's hard to get it much more wrong than that in the American case!

The cleanest articulation of this balancing act was Walter Bagehot's explicit description of responsible government, in 1872. What is striking about both Bagehot and John Stuart Mill, writing at around the same time, is that they make a very important move that goes back to the Madison-Locke distinction.

Madison was all about bargaining of interests and policy-making and rules. Locke was all about the free discussion of what is good for the people and deliberations. **Bagehot said: 'We'll have both – and we'll separate them. Government will be carried out by experts. A government is formed.'**

People with British heritage like Bagehot and Mill use the word 'government' in a strange way that confuses Americans no end. The government is formed out of the democratic representative body, not to it. The government is active and makes decisions, it does things. The representative body deliberates about them. Australia has this amazing mixed model using pieces of all the other models. For instance, you have the American federalist idea of representing states. Why states? If you think about federalism, the famous line in the Australian constitutional debate was 'either federalism will destroy responsible government or responsible government will destroy federalism.' The American political scientist V O Key put it a little bit differently. He said: 'party is the solvent of federalism'.

I think they were both wrong. You have representation of states and representation of the people – but then you also have a divide between deliberative bodies and actual governance, and indirect control over all of them. And all of that is fine.

The Problem is Political Parties

I want to propose a challenge. In both the American and the Australian case, something has gone terribly wrong. And the thing that has gone terribly wrong is parties.

Now I could be philosophically pure about this and point out that for either Madison or Locke the idea of a party is absolutely anathema in a democracy. For Madison, it was critical not to have factions. Their absence saves us from falling into violence and conflict because my ally today may be my opponent tomorrow and vice versa. Shifting alliances of interest are a positive thing; if we have a big enough country, we'll protect it against the danger of capture by one particular interest or domination by a particular class. The interests keep shifting because the country is big enough, and plural enough, that there is always some other line of cleavage on the basis of which an alliance can be formed.

For Locke, the idea of a party is all about party discipline. Party discipline says to party members: we'll tell you what you are for. Mill hated parties. 'Parties are not majority-ruled, parties are ruled by a majority of the majority, which almost always is a minority', he says. What controls the party? The majority of the party. The party might be a majority of the voters but the majority of the majority almost certainly isn't.

How extreme does this become? **Well, one of the really important things that parties do is select the candidates for whom we will vote.**

In the US, the parties have control over the process by which we choose who will be, in effect, the two candidates. The parties control who will be the two choices for leader of the Free World. And that's pretty important. If you control the agenda, if you control who the candidates are, you've gone a fair way into

controlling who the winner is going to be, or at least you've narrowed it down to a very specific range. Who in business wouldn't love to be able to say, 'you have two choices and one of them is mine'? That's a pretty good environment in which to work. This year, Virginia was one of the critical states involved in choosing a Republican candidate, and the percentage of eligible voters who participated in that decision was 5%. Five per cent of eligible voters in Virginia, a critical and pivotal state, participated in the decision as to who would be one of the two candidates for the leader of the Free World.

...And voting systems

Your response may be: 'In Australia our turnouts are around 90%, because it's mandatory' and I am actually quite a fan of mandatory voting. And you have a marvellous system of proportional representation that ensures that all voices are heard. Even small parties have a chance to be heard and have a few seats. Despite this opportunity, 90% of you vote above the line – voting for whom the party tells you to. **And the party takes your second, third, fourth and fifth preference choices and negotiates them with the other parties.** I'm not suggesting any of this is evil. It might be, it might not be (that's up to you), but what I am suggesting is that it does not fit any model of representation; neither of the classic models I have just described nor any model that you could articulate.

Australia has not yet reached the level of dysfunction in politics that we see in the United States, but you are well on your way. Let me ask you to look at the United States as a cautionary tale. The US is not a trivial democracy, but a large, important country and many studies suggest the system is literally broken; broken to the point that its dysfunctionality is unlikely to be repaired anytime soon.



At the beginning of this talk I suggested that those countries where no thought is being given to significant reform are countries that show very high levels of dissatisfaction. And the United States is a perfect example. Our electoral system is lunatic. We reward and encourage participants in the very same structural way that a shareholder-owned corporation, driven by a legal obligation to pursue profit, must pursue certain lines of responsiveness to certain kinds of interests. This is not a criticism of corporations; that's how their system is built. American political parties are built in the same way; they have to pursue the most extreme, most divisive, most angry, most hostile and the most paranoid style available in American politics. They have to.

I don't think that particular disease has infected Australian politics. What you have instead is a different disease. **Parties, or any institution large enough, are given enough control over the process to pursue their own interests – which may have simply nothing to do with the interests of those it claims to represent.**

Representation is central to the way we think of democratic politics. When we think of representation in a serious way we immediately gain a critical purchase on political practices, because we are

confronted by the question: are we leaving out the things that we want to leave out? And the map metaphor perhaps helps us see that. It lets us organise our thinking about that basic problem of who, and what, is being represented? What is the activity of representation? What are the relationships of accountability and authorisation that are driving this system? We all live in systems that claim to be based on a set of 19th century writers and yet at the same time we live in systems that have absolutely nothing to do with those philosophies we claim as our heritage.

If we do recognise the obvious and rather blatant inconsistencies between the theories that we claim as explanations for how we behave and what we actually do, and if we focus particularly on the role of political parties, we then have a good place to start our thinking about what we would want (or need) to change in order to get to a more internally-consistent notion of representation. And beyond that, to a reform of our democratic systems.

Q & A

1 Do you think there is a life cycle to democracy, or at least the democracies that we have developed? That there is a point at which we are just so complex that we begin to atrophy? Because really, what alternative do we have other than to just stick with the system we currently have?

When the Soviet Union fell, there was a whole burst of literature about democratization. And then something shocking happened. A lot of these places began to cease to be democratic and began to go back to being authoritarian and there was a new burst of literature called democratic consolidation. And then as soon as we got a really good crop of PhD theses on that theory, the colour revolutions started up, in Ukraine, in Georgia, and so on. So there was a whole new theory about cycles. I definitely think there is something to what you are saying.

But look at the US, which is much older than Australia, after all. 'Back in the day' isn't that long ago. There was massive reconstruction around 1870 and only slightly less massive reorganisation and reconstruction of the government in the 1930s. That's not ancient history. I do not find it unimaginable that there will be a substantial reconstruction of the system, of elections, of representation, up to and including a system of national elections. I don't find it unconceivable that those things could undergo significant change in my lifetime and certainly in my children's lifetime. So yes, there is an accretion of complexity, of gamesmanship, of constituencies, of interests, of people. You get to a point where everybody loses if anything moves. So I agree with your diagnosis of the state of affairs, but I don't necessarily share your pessimism about the impossibility of change.

2 A question tied in to the shareholder model and required voting vs voluntary voting. People who are supposed to be represented on the map have a choice of whether they actually want to be on that map or not. So you as an investor in a mutual fund could go find out what the 80 companies are, then go harass your mutual company who would be an institutional investor. Equally, I could vote if I choose.

It's a relevant point. The answer as to how it fits with what I was talking about is: it doesn't, just because I wasn't talking about that. But certainly you are right. I always talk more in terms of 'when we set up the rules', how you exercise that choice. We can only map possibilities of choice. But let me point out that the transaction costs in what you are describing are immensely high. I could find out exactly what investment I have, but it would be more than a full time job and I would probably need training to do it.

You are right about the voluntary choice to vote, or not vote, but there are very powerful mechanisms that affect that choice, from things as simple as the fact that we vote on work days and polls close at 7pm, to things as complicated as registration procedures, eligibility rules, the availability of information about the candidates and their policies, or the effects of media as conveyors of information, conveyors of misinformation, or creators of information overload. My very short answer is: I find compulsory voting prevents the emergence of highly unwholesome strategic actions designed to suppress voting and diminish enthusiasm.

3 If representation is a construct, a design, a map that can either include or exclude, then, in our design, should we not think about the purpose? Surely there is scope for us to completely reframe democracy and governance in the interest of a sustainable future.

Of course it's possible to think about completely restructuring democracy. I happen to think its... utopianism makes my feet itch! We need not be utopian, or even think as broadly as that to recognize some consequences. In the case of the US, you can define three distinct phases of understanding what corporations are for.

The first purpose was to launch large scale endeavours without endangering the public through a strategy of allowing private people to pool private capital. That was the driving purpose behind what became the beginnings of modern corporation laws. In the second period, let's call it from WWI until the 1950s, corporations were a vehicle for private profit and public prosperity. It worked – they are amongst the most effective modes of social organisations ever designed by mankind for a particular set of purposes. They help provide jobs, goods and services. So in the second phase, we thought of corporations as vehicles for growth and spreading prosperity.

Starting from the 1960s forward, we needed a secure place to park capital, rather than grow it. The idea that the stock market isn't secure, which makes stock analysts jump out windows, at least the wiser ones, was around even before the GFC. But the idea became that while the stock market of course, has its ups and downs, over a sufficiently long term it is a stable growth place, and a great place to park long term savings and social obligations like pensions.

Whichever of those broadly-described purposes you favour, you're likely to have a different view of how they ought to be governed. So should there be strict rules restricting risks and in assisting corporations as well as banks meeting capitalisation ratios? And above all, we must be sure that entrepreneurs are able to raise capital and take risks and take chances, and lose. But I think we all agree that the third model, the secure savings model, that's a too-big-to-fail model and there's a problem when you combine that model with very high risk-taking activity. Without re-conceiving democracy *tout court* and at a much more concrete level, we can think about policy choices in terms of this notion that representation does relate to the purposes that it's said to serve and move from there to a reform rather than a revolution.



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