

By JOHN HYDE\*

THE Commonwealth Parliament passes far too much legislation far too quickly. Not only is the Parliament expected to deal with more issues than members can possibly debate adequately in so few sitting days but, even more seriously, the time that elapses from introduction of a new measure to its ultimate passage is too short.

Leaving aside completely the question of whether all matters covered by the various bills are amenable to legislation and therefore whether they ought to be the subject of it, both the issues covered by new laws and the terms of the bills themselves are often complex.

They cannot be quickly understood by members who cannot bring expertise to the task of understanding any but a small portion of the bills on which they nominally deliberate.

It would be a brave member who asserted that he was completely confident that he had understood — or, indeed, read all of — any of the more complex bills; and that implies no lack of effort or intelligence by members.

It would not matter so much if the parliamentary system in Australia were managed in such a way as to allow expert evaluation of new measures by those people outside the Parliament who will be most affected by them. The Government has its in-house experts but these, however good, have a narrow background and their own axes to grind.

Bills do usually go to relevant Government parties backbench committees before they are introduced to the Party Room and the House, and of course they run the gauntlet of Cabinet and its sub-committees.

That process does sometimes discover unintended consequences but naturally it works best when it works slowly. The Opposition often has only seven days in which to determine its attitude.

The public, in theory at least, has no knowledge of what the Government is up to until a bill is introduced to the Parliament.

In practice, most really contentious measures fall off the backs of trucks all over town. Budgets aside, the Cabinet and Public Service leak is in my judgment an important force for legislative competence and even sanity; and therefore, so long as present arrangements prevail, not to be deplored in spite of the obvious risk to probity and fairness.

## Less haste makes for better bills

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concerned about the same general issues as we were.

The State governments had all come out against the measure, mainly not from civil liberty considerations but because they saw the commission as an infringement of their authority. Although I did not find this group of arguments completely convincing, others did; and whatever the intrinsic merit of the arguments it is very poor politics needlessly to get all the States off side.

Finally, the atmosphere of the Parliament and the nation was wrong for calm consideration of such a measure. The proposal arose out of the Costigan inquiry and was being considered in the aftermath of the extremely objectionable public witch hunt which (so far as I can tell, through no fault of Costigan's) also arose from that inquiry.

It was in the light of all the above that the Government was urged to let the bill lie on the table over the summer recess. That procedure would have allowed expert arguments to be advanced and re-

butted, and compromises to be reached at leisure.

In the event, the Government refused to stand the bill over. One of our number, John Spender, who is learned in these matters, drafted amendments which we moved and in one case divided on, with five of us crossing the floor. Under pressure, the Government accepted the remaining amendments in the small hours of the morning.

I have nothing but praise for John Howard, Neil Brown and Doug Anthony, the three ministers who had the unenviable task of coping with us; but why did it have to be done that way?

At Canberra airport where one meets all sorts of interesting people, I ran into a friend from the Public Service who complained that we had — to the great benefit of criminals — emasculated his bill. He also deserved time to put his argument.

Only in the rarest circumstances should any major innovation legislation seek the passage of the Parliament in less than four months.

\*John Hyde is the Federal member for Moore.

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The passage of the Crime Commission Bill through the House of Representatives, the case in point which prompts this article.

No doubt sophisticated crime has increased in recent times but Australia has done without a Crimes Commission for 82 years and there is no obvious reason to establish one before Christmas.

The proposed commission broke new ground — ground which lawyers assure me is though common in the U and in Continental Europe alien to British and Australian jurisprudence.

The bill concerns the liberty of the subject and there is enough old-fashioned liberalism in several members of the Liberal Party for us to be concerned about that. Further and this concerned those of us who were not ourselves lawyers most of all, the bill seemed to have run into the almost unanimous opposition of the various Law Societies and Bar Councils around the nation.

Several members of the Opposition who would be mostly regarded as sensible fellows by Government members were

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