

Notes for Book Launch

2016 has been a sub-Dickensian year. All year, we've heard one lament. "It was the Least Best of Times, it was the Worst of Times."

The *raison d'être* of this book was to ask why, when we deliberate about the rules and institutions of electoral democracy, we pay little attention to improving *democratic deliberation*.

A common assumption is that electoral democracy is at best, a way of aggregating partisan preference. Or, at worst, a way of aggravating prejudices. Elites, we are told, deliberate better. They take our values and they put them into reasonably rational law.

Yet one only has to look at the decades long inaction on abortion reform, to know that representatives sometimes *run a mile* from acting on well deliberated community values. In this case, to liberalise the law.

On some well debated social issues, then, direct democracy – let's say a plebiscite on gay marriage – starts to look pretty rational, if expensive, as an alternative to parliamentary shilly-shallying.

Proponents of direct democracy – that is, more referendums – rest their case on the ability of referendums to be *focused* instances of participatory democracy. You can put out carefully crafted 'yes' and 'no' cases for all to digest.

It doesn't always work that way though. As this year clearly demonstrates.

Brexit is one example. Closer to home, the Qld referendum on fixed 4 year terms, was a classic example a *deliberately* shoddy *deliberative* process. The major parties bundled up two separate questions – one on fixed terms (good), with one on longer terms (hmmmm, let's have fewer elections in a system with no upper house, no proportional representation, no entrenched rights and the Courier-Mail to protect us). Yet only the proposal for fewer elections actually required a referendum. The government then rushed to a vote, without spending a dollar on basic education about the question. This despite years of reports on the importance of setting the scene before constitutional reform. So 2016 wasn't a model year for referendum processes.

Most of the English speaking world treats the US as a model of how not to do things. Trump v Clinton will seem like a nadir for electoral deliberation. But elections are always open-ended deliberative exercises. There's no single issue, no 'yes' or 'no' case. Modern electors care, understandably, about the character of their chief executive. Seen that way the 2016 presidential campaign wasn't all bad, even if the candidates were. By law, the long campaign, with its 4 hours of ritualized debates, was absolutely *needed* to shine the torch on the serious flaws of each candidate. This was one campaign that mattered. Trump just won, but now he starts with a 60% unfavourability rating. So elections are not just about who wins...

If such questions appeal to you, then this book is for you.

If not, enjoy the wine nonetheless.

It falls to me to thank some folk.

First, to the ever-present Law Events team of Jane, Nadine and Therese, for helping organize this.

To the Law Schools of UQ and ANU for employing Ron and me, for supporting us.

To the Australian Association of Constitutional Law and the Electoral Regulation Research Network – especially Tracey - for helping promote this launch.

To Peter, like me one of the spawn of the chambers of Justice Jeff Spender. Thanks for your thoughtful words, and for being one of the first in this country, other than our paid RAs to digest the work. As the beautiful French painting on the cover suggests, the book is at times a dense even dark deliberative exercise.

Thanks to Routledge, far away, for publishing it.

To the several research assistants, mostly law/political science students who helped us, thanks.

Not all were students. Greg Dale a lecturer at UQ and Phd student at Monash, has been a sterling collaborator and helper to me for years. He did considerable digging and polishing on the lode of this project.

And most of all, to Ron Levy, my co-author. I lent my name to help get the Australian Research Council grant, and two book contracts for this project. (Yes, there's a second work to come: a Cambridge University Press handbook on "The law of constitutional deliberation"). But the ideas and ideals are very much Ron's. Ron is a true mensch. A dank, Ron.

Finally, to the ARC itself. May we be forever grateful for the wine and food we are about to receive.

Now we can adjourn.