



**Minority Governments / Hung Parliaments –
Perspectives from the Chair**

Paper presented by

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While there has been a tendency for modern Australian parliaments to be dominated by strong, single party governments, there have been a number of recent minority governments, reflecting the growing popularity of minor parties and independents in recent decades.

This trend has also played out in other international jurisdictions, with the recent UK election resulting in a hung Parliament and the formation of a coalition government between the Conservatives and the Liberal Democrats, and the minority government experiences of the devolved administrations of Scotland and Wales. Since the introduction of a proportional representation electoral system in New Zealand in 1996, there have been no single party majorities.³

The purpose of this paper is to examine the impact of a minority government on the role of the Speaker.

The first part of the paper examines the often difficult decision as to who will occupy the role of Speaker in a hung Parliament. When numbers are tight, a lot can rest on this decision and it can be a difficult balancing exercise for all those involved, both parties and/or independents. Usually the decision is based on whether to seek influence, power, and reform from the floor of the Parliament or from the Speaker's chair.

¹ For the purposes of this paper, a *minority government* is defined as a government that 'is formed in those circumstances where, in the context of a hung Parliament, some accommodation is made between political rivals or competitors, be they political parties or Independent Members of Parliament.'

² For the purposes of this paper, a *hung Parliament* is defined as 'those political circumstances where no party or formal coalition of parties has majority support in the Lower House of Parliament, that is, in the House in which Parliaments are formed'. Griffith, G., *Minority Governments in Australia 1989 – 2009: Accords, Charters and Agreements*, Background Paper No 1/10, NSW Parliamentary Library Research Service, p. i.

³ Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 38.

The role of an independent Speaker in New South Wales shows what can be achieved, without necessarily diminishing the opportunity to advocate for legislative and policy reform and, most importantly, to advocate for constituents. There are many benefits that can be derived for the House, in terms of the Speaker's enhanced independence, impartiality and distance from partisan party politics.

The second part of the paper looks briefly at the role of the Speaker in a number of comparative jurisdictions, particularly the contrasting examples of the recent minority governments in Scotland and the United Kingdom.

A hung Parliament can result in various arrangements for minority governments. Agreements between political parties and/or independents range from those that are quite formal, documented and comprehensive, to those that are relatively informal and ad hoc. Much will depend on the context of the minority government situation. However, the common characteristic of all minority governments is that numbers are close and every vote counts. In this game of tight parliamentary maths, there are a number of tactical considerations as to who should perform the role of speaker.

For the governing party, the decision hinges on whether to have one of their own sit in the Chair, in which case they would lose a vote on the floor, or to appoint an independent or minor party representative to the role of Speaker, and lose the perceived advantage of a government affiliated Speakership.

As stated by the Hon John Murray, a previous Speaker to the New South Wales Legislative Assembly:

Party discipline in Australia is rigid and as such it has become somewhat accepted that the party with the majority will have the numbers to elect the Speaker providing them with some political advantage or privilege.⁴

In relation to the election of the Speaker, an attitude of 'to the victor belong the spoils' has generally prevailed. In the New South Wales Legislative Assembly, the

⁴ 'The Role of the Speaker and Political Reality' – paper presented by the Hon. John Murray MP, Speaker of the Legislative Assembly of New South Wales to the 33rd Conference of Presiding Officers and Clerks, Brisbane, Queensland, July 2002.

Speaker is paid an additional salary and an expense allowance, which is equivalent to that paid to a Minister.⁵ The Speaker also receives additional travel entitlements, and greater transport, communication and stationery entitlements.⁶ The Speaker has a suite of offices in Parliament House, a car and driver, and extra staff in the form of a research officer, secretary and attendant. Parties and coalitions may be reluctant to bestow such a prestigious position on a member from outside their own ranks.

For the independent or minor party, the decision as to whether to accept the Speakership may involve a careful weighing up of the 'prize' of the highest office in the Parliament and the ability to preside over Parliamentary proceedings, against the ability to actively participate in debate.

This dilemma is illustrated by the well-publicised example in NSW of John Hatton, the then Independent Member for the South Coast, who was offered role of Speaker of NSW Legislative Assembly during the Greiner minority government of the early 1990s. Following the 1991 election, there were 49 Coalition members, 46 Labor and 4 Independents elected, one of whom indicated that he would support the Coalition. In these circumstances, a government (Coalition) affiliated Speaker meant that if Labor and the 'unaligned' Independents 'all voted against the Government, the Speaker's casting vote would be needed to allow it to win divisions'.⁷ The situation in 1991 has been described as follows:

With the numbers so close the position of speaker emerged as a bargaining point. ... Obviously if an Independent were to accept the position this would give the Government a marginal (but crucial) advantage.⁸

An unaffiliated Independent Speaker would have allowed the government to secure a 'relatively comfortable majority' resulting in 'greater security for the Government

⁵ Salaries and Allowances for Members of the Legislative Assembly, [http://www.parliament.nsw.gov.au/prod/web/common.nsf/cbe381f08171c2e8ca256fca007d6044/ddbd9a30d38c23c6ca2575ea007c4cbc/\\$FILE/LA%20Members%20Salaries%20and%20Allowances%20ct%202009.pdf](http://www.parliament.nsw.gov.au/prod/web/common.nsf/cbe381f08171c2e8ca256fca007d6044/ddbd9a30d38c23c6ca2575ea007c4cbc/$FILE/LA%20Members%20Salaries%20and%20Allowances%20ct%202009.pdf), accessed 29 June 2010.

⁶ Parliamentary Remuneration Tribunal, 'Annual Report and Determination of Additional Entitlements for Members of the Parliament of New South Wales' http://www.remtribunals.nsw.gov.au/data/assets/pdf_file/0020/50609/2009_Parliamentary_Annual_Report_and_Determination.pdf, accessed 29 June 2010.

⁷ Clune, D. & Griffith, G. *Decision & Deliberation: The Parliament of New South Wales 1856 – 2003*, The Federation Press, 2006, p. 541.

⁸ Rozzoli, K. *Gavel to Gavel: An insider's view of parliament*, UNSW Press, 2006, p.4.

and considerably reduced influence for the Independents'.⁹ Kevin Rozzoli, the then Speaker and member of the governing Liberal Party, has since stated that:

*The tactical advantage of having Hatton off the floor of the House was worth any hypothetical disadvantage that may arise from not having a speaker who was a member of the Government...*¹⁰

John Hatton was quoted in the press at the time as saying that the decision on whether to accept the Speakership was 'the most difficult and agonising decision' of his political life.¹¹ It was reported that he viewed the role as a 'historic opportunity to bring some democracy to the House, change the standing orders and probably improve the standard of debate.'¹²

His authorised biography describes how he agonised over the offer of the Speakership, which he saw as a chance for 'more power' and a way to influence Parliamentary procedure and the interpretation of the standing orders.¹³ In short:

*He felt torn between 'selling out' and relinquishing his influence on the floor of Parliament and the strong attraction of having administrative power.*¹⁴

John Hatton was ultimately convinced by his Independent colleagues that more could be achieved by them acting together in Parliament and through a comprehensive Charter of Reform negotiated with the government and the opposition, and he turned down the role of Speaker.¹⁵

However, in 2007 the election of an Independent as Speaker, while in a very different political context, shows that the choice is not always one between exercising power from the chair and power on the floor.

⁹ Rozzoli, K. *Gavel to Gavel: An insider's view of parliament*, UNSW Press, 2006, p.5.

¹⁰ Rozzoli, K. *Gavel to Gavel: An insider's view of parliament*, UNSW Press, 2006, p.5.

¹¹ 'Hatton's Tough Choice: Speaker or Free Speech', *Sydney Morning Herald*, 4 June 1991.

¹² 'Hatton's Tough Choice: Speaker or Free Speech', *Sydney Morning Herald*, 4 June 1991.

¹³ Richmond, R. *The Stench in this Parliament*, 2009, p. 176.

¹⁴ Richmond, R. *The Stench in this Parliament*, 2009, p. 177.

¹⁵ 'The man who knows too much', *Sydney Morning Herald*, 5 June 1991; 'Hatton rejects job as Speaker', *The Mercury*, 6 June 1991; 'John Hatton, Independent MP' (Chapter 12), Lee, H & Mitchell, G in Turner, K & Hogan, M. (eds), *The Worldly Art of Politics*, The Federation Press, 2006, pp.126-127.

In considering whether to accept the Speakership, consideration of the fact that as the Speaker, it would be possible to have more direct access to the Premier and Ministers. This situation would result in greater access to decision-making processes to be an advocate for the people of my electorate.¹⁶

An important aspect of negotiations with the government on accepting the role of Speaker was the establishment of a Rural and Regional Taskforce, to 'provide advice on key economic, environmental and social issues affecting rural and regional communities across NSW.'¹⁷

The Government also agreed to investigate avenues to allow the Speaker to be able to fully participate in the Chamber.¹⁸ This was necessitated by earlier changes to the Standing Orders that dispensed with the Committee of the Whole procedure, which had allowed for the participation of the Speaker during debates on Bills in Committee and an opportunity to cast a deliberative vote in any division taken in Committee.

Hence, in July 2007 the *Constitution Act* was amended to provide that:

The Speaker may, when not presiding:
(a) take part in any debate or discussion, and
(b) vote on any question,
*which may arise in the Legislative Assembly.*¹⁹

When introducing the Constitution Amendment (Speaker) Bill, the Government said that the change was necessary to ensure that:

... if a matter arises upon which the Speaker needs to take a position in the interests of his or her electorate, the Speaker will be able to do so. The Speaker, like every other member of the House, represents a particular electorate. It is important for the Speaker to be able to give a voice to that electorate. It is especially critical where the

¹⁶ Northern Daily Leader 30 March 2007

¹⁷ Rural and Regional Taskforce, NSW Government, *Report to the Premier*, March 2008, p. 15. The members of the Taskforce are: Dr Col Gellatly – Chair (Former Director General, NSW Department of Premier and Cabinet); The Hon Richard Torbay MP (Speaker and Member for the Northern Tablelands); Mr Steve Whan MP (Member for Monaro).

¹⁸
¹⁹ Section 31(4), Constitution Act 1902.

*Speaker is not affiliated with a political party that has other representatives in the House.*²⁰

When the Standing Orders were further amended in 2009 the opportunity was taken to reflect the change to the *Constitution Act*, with standing order 9(1) now providing that:

... the Speaker, when not presiding in accordance with section 31 of the Constitution Act 1902, is not precluded from participating in debate or discussion or from voting on any question.

These changes have subsequently enabled the Member for Northern Tablelands to introduce the Food Amendment (Meat Grading) Bill 2008, which was passed as the *Food Amendment (Beef Labelling) Act 2009*, vote in divisions, table petitions and make many private members statements on issues affecting my electorate.

Statistics on Participation in the 54th Parliament as Member for the Northern Tablelands (May 2007 – current) are as follows:

Private Members Statements	50
Bills introduced	2 ^{21, 25}
Petitions Presented ²²	23
Divisions voted in	4 ²³
Written Questions Asked ²⁴	16

²⁰ Sonia Hornery, on behalf of the Premier, 'Constitution Amendment (Speaker) Bill 2007, Agreement in Principle Speech', Hansard, 8 June 2007, p. 1101.

²¹ Introduction of and agreement in principles speech on the Food Amendment (Meat Grading) Bill (4 December 2008).

²² It should be noted that the previous custom was that the Speaker would not present petitions, but have another member present them on his or her behalf.

²³ Subject of the divisions: Agreement in principle on the Standard Time Amendment (Daylight Saving) Bill (26 September 2007); Agreement in principle on the Rural Communities Impacts Bill (18 October 2007); "That the debate be now adjourned" on the agreement in principle on the Transport Administration Amendment (CountryLink Pensioner Booking Fee Abolition) Bill (10 April 2008); and the agreement in principle on the Hurlstone Agricultural High School Site Bill (25 June 2009).

The Member for Northern Tablelands also introduced the Parliamentary Remuneration Amendment (Salary Packaging) Bill, which ‘enabled members of Parliament access to salary packaging arrangements similar to those available to New South Wales public sector employees.’²⁵ These amendments were ‘in line with recommendations made by the Parliamentary remuneration Tribunal’ and are ‘similar to superannuation and salary packaging schemes in for Members of Parliament in other jurisdictions’.²⁶ The Bill was introduced ‘following representations from a number of Members from various political persuasions’ and it was passed by both Houses without amendment.²⁷

As an active and busy independent Member of Parliament, the Speaker is assisted by a Deputy Speaker, two Assistant Speakers and four Temporary Speakers (two of whom are members of the opposition) who take the Chair on a roster.

Given these developments, it could be argued that the role as an Independent Member of Parliament has been enhanced, rather than hindered by accepting the Speakership.

More general discussion of the position of Speaker in minority governments, by briefly looking at some comparative examples follows.

In most cases, in Australian Parliaments at least, the trend has been for Speakers in hung Parliaments to be from the major governing party, with the exception of South Australia (2002), where two independents were appointed as successive Speakers, and the ACT (2008) where a Greens member was appointed as Speaker [see Appendix 1]. While a member of the governing party was elected as the Speaker of the Tasmanian House of Assembly (2010), a Greens member was elected as the Deputy Speaker.²⁸

²⁴ The three most recent previous Speakers - Hon Kevin Rozzoli, Hon John Murray and Hon John Aquilina - did not ask any written questions whilst Speaker.

²⁵ Agreement in principle, Legislative Assembly Hansard, 26 June 2009, p. 16901.

²⁶ ANZACATT, Parliament Matters, Issue 23, February 2010, p. 25.

²⁷ ANZACATT, Parliament Matters, Issue 23, February 2010, p. 25.

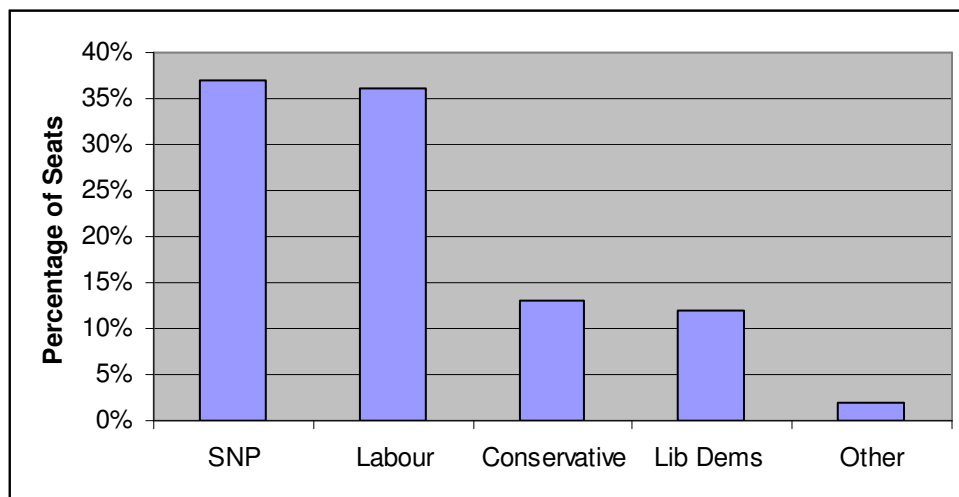
²⁸ House of Assembly *Hansard*, Parliament of Tasmania, Tuesday 4 May 2010; ‘The Greens spring Best surprise’, *The Mercury*, 5 May 2010.

The situation in comparative international Parliaments is varied [see Appendix 2].

New Zealand is similar to Australia, in that in the minority governments that have prevailed since the introduction of mixed-member proportional representation, the Speaker has been from the party with the largest number of seats. On adoption of this new electoral system, 'the Speaker's casting vote was abolished' and the 'Speaker's vote is now included with the votes held by [their] party.'²⁹

After the Scottish election in 2007, the Scottish National Party (SNP) 'became the largest party at Holyrood (by a single seat)'.³⁰ However, it only had 37% of seats³¹ and was unable to form a majority coalition.³²

Distribution of Scottish Parliament Seats – 2007 Election



²⁹ New Zealand Parliament, 'How Parliament Works', *Facts Sheet*, <http://www.parliament.nz/en-NZ/AboutParl/HowPWorks/FactSheets/9/2/1/00PlibFactsheetSpeakerHistory1-The-Speaker-in-history.htm>

³⁰ Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 54.

³¹ The election results were as follows: SNP – 37%, 47 seats; Labour 36% - 46 seats; Conservatives 13% - 17 seats; Liberal Democrats – 12%, 16 seats; Other – 2%, 3 seats.

³² Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 54.

The decision by the SNP to form a minority government has been described as follows:

*With no feasible alternative government, the party reluctantly formed Scotland's first minority administration, with limited external support from the two Green members.*³³

In this potentially very volatile situation, there was 'an initial reluctance [by political parties] to give up a voting member [to perform the role of Presiding officer]... In the end a Conservative member was persuaded to stand, and with Labour and SNP each taking one of the deputy positions so as not to upset the delicate balance.'³⁴

As one would expect, given the close numbers in the Scottish Parliament, the 'Scottish Presiding Officer has had to give more procedural rulings in the 2007 minority parliament.'³⁵ The Presiding Officer has also had to exercise his casting vote on a number of occasions, and in order to 'diffuse tension and avoid procedural arguments' he 'has developed the habit of announcing in advance of a close vote how he will exercise his casting vote'.³⁶

In Wales, for the first term of the National Assembly (1999), the Labour Party governed alone as a minority administration. The government's status as a minority administration 'meant yielding power in the Assembly, [including] first on the post of Speaker, which went to Plaid Cymru', the party with the second largest number of seats.³⁷

³³ Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 54.

³⁴ Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 64.

³⁵ Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 85.

³⁶ Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 85.

³⁷ Seyd, B. *Coalition Government in Britain: Lessons from Overseas*, January 2002, The Constitution Unit, School of Public Policy, University College London, p. 10.

By contrast, the election of a Speaker to Westminster after the 2010 election, which resulted in a hung Parliament and the formation of a coalition government, was relatively simple and uncontroversial. John Bercow, the Speaker from the previous Labour controlled Parliament, and a former Conservative Member, was re-elected unopposed. This can perhaps be explained by the UK Parliamentary practice and convention that 'on election [a] new Speaker must resign from their political party and remain separate from political issues even in retirement' and will be 'unopposed [at general elections] by the major political parties.'³⁸

These comparative examples would seem to indicate that the role of the Speaker in a hung Parliament depends on a number of variables, including: the political context and type of minority government; the practices and procedures of the House; and the evolution of the Parliamentary conventions surrounding the role of the Speaker in each particular jurisdiction. It will also, to a large part, depend on the approach taken by each individual Speaker and the way in which they interpret their role.

³⁸ The Speaker, *Parliament UK*, <http://www.parliament.uk/about/mps-and-lords/principal/speaker/> (accessed 22 June 2010). Also, 'During a general election, Speakers do not campaign on any political issues but simply stand as 'the Speaker seeking re-election'.

Discussion Points

1. *Governing parties*: The dilemma for governing parties when considering the role of Speaker during a hung Parliament - balancing the power and prestige of the Speakership against the tactical advantage of removing an opponent from the floor of the Parliament.
2. *Independents and minor parties*: The dilemma for independents and minority parties if offered the role of Speaker during a hung Parliament – balancing the power and prestige of the Speakership against restrictions on the ability to actively participate in debate.
3. *Independent Parliamentarians in the role of Speaker*: Not all Speakers are afforded the same opportunities that I have been to continue to be active in the House on behalf of my constituents.
 - a. Do the benefits, such as access to Ministers and opportunity to promote Parliamentary reform, outweigh the potential challenges, including restrictions on the ability to actively participate in debate?
 - b. How does the perception of an Independent Speaker compare to the political reality of the government generated agenda of the House?
4. *Speaker's casting vote*:
 - a. Is the practice adopted by the Scottish Presiding Officer, of announcing in advance of a close vote how he intends to vote, appropriate?
 - b. Should principles and conventions concerning the exercise of the Speaker's casting vote – ie. (a) allow further debate where possible; (b) where no further discussion is possible, decisions require a majority, so that (c) on tied amendments to a bill, the bill itself is left in its original form³⁹ – apply in all circumstances, including a hung Parliament?

³⁹ Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 85.

Appendix 1

Australian Parliaments – The Position of Speaker Minority Governments since 1988

Jurisdiction	Date	Party or parties forming government	Type of Government	Speaker
Tasmania	1989	The Labor Party	Labor-Green Accord	The Honourable Michael Robert Polley ALP
NSW	1991	The Coalition	Minority	Kevin Rozzoli Liberal Party
Queensland	1996	The Coalition	Minority	Neil Turner The Nationals
Queensland	1998	The Labor Party	Minority	Raymond "Ray" Hollis ALP
ACT	1998	The Liberal Party	Minority (with an Independent Cabinet Minister)	Greg Cornwell Liberal Party
Victoria	1999	The Labor Party	Minority	Alex Andrianopoulos ALP
South Aust.	2002	The Labor Party	Minority (with an Independent Cabinet Minister ⁴⁰ and National Party Cabinet Minister ⁴¹)	The Hon Peter Lewis Independent (until 4 April 2005) Dr Robert Bruce Such Independent
Western Aust.	2008	Liberal Party National Party	Minority (informal coalition of Liberal and National plus one Independent Cabinet Minister)	Grant Woodhams Nationals
ACT	2008	The Labor Party	Minority	Shane Rattenbury The Greens
NT	2009	The Labor Party	Minority	Jane Aagaard ALP
Tasmania	2010	The Labor Party	Minority (with 2 Greens Cabinet Ministers)	The Honourable Michael Robert Polley ALP

⁴⁰ Appointed 4 December 2002.

⁴¹ Appointed 24 July 2004.

Comparable International Parliaments - The Position of Speaker in Recent Minority Governments

New Zealand

Date	Parties forming Government	Type of Government	Speaker
14 August 1998 – 27 November 1999	Nationals	Minority	Doug Kidd, National
27 November 1999 - 27 July 2002	Labour Alliance	Minority coalition	Jonathan Hunt, Labour
27 July 2002 – 17 September 2005	Labour Progressive Party	Minority coalition	Jonathan Hunt, Labour
17 September 2005 – 8 November 2008	Labour Progressive Party (with confidence and supply support from New Zealand First and United Future who had one non-cabinet ministerial position each.)	Minority coalition	Margaret Wilson, Labour
8 November 2008	National (with confidence and supply support from ACT, United Future and Maori parties)	Minority	Lockwood Smith, National

Scotland

Date	Party or parties forming Government	Type of Government	Speaker ⁴²
1999	Labour Party and Scottish Liberal Democrats	Majority coalition	Sir David Steel, Liberal Democrat
2003	Labour Party and Scottish Liberal Democrat Party	Majority coalition	George Reid, SNP
2007	Scottish National Party	Minority	Alex Fergusson, Conservative

⁴² On election as Speaker to Scottish Parliament, the Speaker sets aside party affiliation.

Wales

Date	Party or parties forming Government	Type of Government	Speaker
1999	Labour	Minority	Lord (Dafydd) Elis-Thomas, Plaid Cymru
2003	Labour	Labour had exactly half of the seats	Lord (Dafydd) Elis-Thomas, Plaid Cymru
2007	Labour and Plaid Cymru	Coalition	Lord (Dafydd) Elis-Thomas, Plaid Cymru

Discussion Points

1. Independent Parliamentarians in the role of Speaker:

- a. Do the benefits of the Speakership, such as access to Ministers and opportunities to promote Parliamentary reform, outweigh the challenges, including restrictions on the ability to actively participate in debate?
- b. How does the perception of an Independent Speaker compare to the political reality of a government generated agenda in the House?

2. The Speaker's casting vote:

- a. Would the practice adopted by the Scottish Presiding Officer, of announcing in advance of a close vote how he intends to vote, be appropriate in other jurisdictions?
- b. Should the principles and conventions concerning the exercise of the Speakers casting vote – ie. (a) allow further debate where possible; (b) where no further discussion is possible, decisions require a majority, so that (c) on tied amendments to a bill, the bill itself is left in its original form⁴³ – apply in all circumstances, including a hung Parliament?

3. Hung Parliaments/minority governments: The perspectives of Speakers and Clerks on the impact of hung Parliaments on the:

- a. the practices and procedures of the House; and
- b. the evolution of the conventions surrounding the role of the Speaker.

⁴³ Hazell, R. & Paun, A (eds) with Chalmers, M., Young, B & Haddon, C. *Making Minority Government Work: Hung parliaments and the challenges for Westminster and Whitehall*, The Constitution Unit, School of Public Policy, University College London, p. 85.