

DIRECT DEMOCRACY SEMINAR-CANBERRA-28 JULY, 1994

THE CITIZENS'-INITIATED-REFERENDA-A QUEENSLAND PERSPECTIVE

Mr Chairman, Distinguished Guests, Ladies and Gentlemen,

Thank you for your invitation here today.

A cynical observer might remark that the advocates of any form of direct democracy are almost invariably found among the ranks of those not in government and that their advocacy has little to do with giving the people a direct voice in determining major policy issues and a lot to do with attempting to nobble the government they oppose.

I suppose this criticism could be particularly levelled at me. I was a member of a government for nine years including a time as a minister and, for three months at the end of 1989, a period I euphemistically refer to as my brief guest appearance as Premier before having the doubtful distinction of leading a government which, in essence, had ruled for 32 years to a rather devastating defeat. Incidentally on that subject, I take some comfort reflecting on the analogy that everybody remembers the sinking of the Titanic but hardly anybody recalls Captain W.E. Smith.

And, I should add, the analogy ends with my determined declaration of being a senior officer on the deck of the next Queensland Coalition Government. Apart from that, I have no wish to be just a footnote in Queensland political history.

It might also be said that my advocacy of this principle seems rather late in the day because, if it is such a good idea, why didn't I do something about it while a minister or premier.

Apart from the fact that it wasn't-and still isn't-Queensland National Party Policy, I plead mitigation by saying that it was outside of my portfolio area while I was minister and I hardly had enough time to shift into my office while Premier let alone do anything else-apart from move out,

It would be dishonest and hypocritical for me to stand here today advocating **Direct Democracy and the virtues of ensuring that the will of the majority can be exercised** and not admit that my government deserved its defeat in 1989 when the majority spoke. I became Premier knowing in my heart of hearts that catastrophic events for my party and government had proceeded beyond the point of rescue. The National Party government in 1989 would have been thrashed even if we had Mother Theresa as our leader.

My government deserved to be beaten for fundamentally the same reasons the Kirner, Lawerence, Arnold and Field governments deserved to be beaten. **In all our cases, there was an overwhelming public perception that our governments had all become, in varying degrees, arrogant, dishonest, distant, corrupt, venal and downright incompetent and, in politics, public perception translates into voter intent. If the Labor Party doesn't make the same admissions about their failures as I have about mine, then they are guilty of the most breathtaking hypocrisy and deceit and have learned nothing.** If your reaction to a past defeat boils down to a self-serving huffiness, then you cannot expect to regain the respect and the support of the people.

Coming as I do from a small country community of some 300 people, I have always been committed to the ideals of rugged self-determination and self-help. My entry into state politics in 1983 was, in a sense, inevitable given my family's involvement over many years in state and federal politics.

I like to think that many of the qualities Alexander Downer inherited to bring to his job derive from the fact that his father was my mother's cousin and, incidentally, my god-father. I also candidly admit to the fact that my long-held belief in the principle of **Direct Democracy somewhat ironically became more and more entrenched after I became a member of parliament and more and more determined after I became a minister. Any lingering illusions I cherished about what major, fundamental changes could be made faded progressively the further I moved up the ladder. I could be forgiven sometimes for wondering why in God's name I had bothered to get as far as I did when faced being told by some smug public servant, "No, you can't do that Premier."**

FRANKLY, WHAT ARE THE PROSPECTS OF ANY FORM OF DIRECT DEMOCRACY BEING IMPLEMENTED IN QUEENSLAND?

We don't rush into things in Queensland-it was only a few short years ago that our road engineers came up with the idea of roundabouts some two thousand years after the Romans and the present government is investigating the idea of actually putting the police "on the beat." This concept is being described as "innovative" despite the fact Sir Robert Peel used it when he formed the London Metropolitan Police in 1829 and even he didn't try and admit it was new.

Actually, in Queensland, there has been a retreat from the concept over the past ninety years. **In 1908 with the passage of the Parliamentary Bills Referendum Act, the government was entitled to submit to referendum bills which had been rejected by the then Upper House, the Legislative Council.** In 1916 a State Labor government passed a bill to allow for the general establishment of the machinery of government -instigated referenda. **Paradoxically, one Legislative proposal of the State Labor government rejected by the then Legislative Council and never put to a referendum was one for a form of Citizens' Initiated Referenda and the retreat from the principle began. A subsequent Labor government abandoned the idea entirely.**

In fact a system of C.I.R.remained as Labor Party policy until they finally abandoned it in 1963- on the motion of Don Dunstan who subsequently created a reputation for being a staunch believer in majority rule.

Despite the fact that we have had two proposals put to the popular vote in Queensland since the Labor Party came to power in 1989, we have stepped back in one very real sense from DIRECT DEMOCRACY and, in another very real sense, made a complete mockery of the concept.

When my party was in office, any proposal to amalgamate local authorities required the approval of a majority of the voters in every authority concerned. Now we have forced amalgamations whatever local government's tawdry pretence of instituting its so-called "public consultation processes" and this was -and continues to be-exhibited as a glittering jewel in its accountability platform.

For example, the government had the gall to place a toxic waste dump in my electorate and then, to add insult to injury, tried to claim it had the approval of some sort of alleged local "consultation"

In this, and so many similar circumstances, is it any wonder that people regard this so-called "consultation" process as a sham and resent bitterly not only the fact of the decision but the pack of lies trotted out to Justify it?

I said earlier that any form of **Direct Democracy or C.I.R.** is not Queensland National Party policy and the reasons for that are essentially the same reasons other mainstream political parties have rejected the concept-**the fear that a proposal might be carried that is contrary to party policy and a rather touching belief that when the party is in government, it will naturally do all the right things and only enact and reject on the basis of what is popular.**

For example, one of the arguments used to reject the concept at my party's state conference in 1988 when we were in government **was the fear that implementation of any such proposal could lead to the introduction of daylight saving.** Such introduction, despite half-smart cracks from some southerners, would have a devastating effect on country and provincial Queensland. However, when the Labor government was forced into such a referendum and the allegedly discredited and minority National Party campaigned against it virtually single-handed, the proposal was defeated. Similarly, when the government put up a referendum proposal to extend the term of the parliament from three to four years and the National Party argued against, the "No" case won again.

In 1992, when we were in opposition, the concept was again considered by our state council and was narrowly defeated for what I believe were the worst possible reasons. Yet, at virtually the same time, when the **matter was put to the entire 26-member Parliamentary National Party, the vote was unanimously in favour-** and almost half of those members had served at some time as ministers. I am also here today with the blessing of our Parliamentary leader Rob Borbridge, to participate in this important discussion and with that of our senior Vice-President of the N.P.A.-Q organisation, Mr David Russell. It would be true to say that they- rather than our rank and file- had rather a better and more realistic appreciation of the facts of life in politics and what can be achieved in government.

It is not my intention or even my purpose today to try and propose what technical steps should be in place to require the holding of a C.I.R. and what would be required by the relevant government in response. Rather, I want to argue in favour of the principle. If that course of action is good enough for the Prime Minister on the republic issue, surely it is acceptable on this by a modest Queensland state opposition member.

As I see it, all levels of government- local, state and federal - should be subject to a form of C.I.R. direction from those who elect them. Further, I would propose that once the electors in one local authority or one territory or one state or the nation vote to achieve something, then that should be the end to it. No other level of government or anybody else for that matter should be allowed to over-ride or qualify or otherwise seek to alter. The result of the vote -at any level- must be regarded as sacred however impractical, ridiculous or downright stupid those who oppose it believe it to be.

A form of direct democracy, with a carefully considered sequence of deliberate steps from trigger to observance, would be of tremendous benefit to any government because it would actually be doing something that the majority wanted. If a government could not stomach the result of a C.I.R. and delayed its implementation, then it should resign.

In fact, I would argue that there need be precise measures in place to require that the relevant government faithfully abide by the majority vote or resign or, if necessary, face the sack.

That is not to say that any C.I.R. in the future could not overturn something already in place due to the result of a previous C.I.R. Public attitudes and perceptions change and understandably so. Early this century, a Queensland referendum voted in favour of compulsory Bible teaching in schools and, while some of us might still regard that as not such a bad idea, the chances of the same result today are somewhat less.

If you think my position on this matter derives partially from enlightened self-interest, you are absolutely right. It would be a wonderful experience as a minister to introduce legislation based on the results of a referendum knowing that the public service couldn't muck you around, that the opposition would only come from a proven minority and the courts couldn't strike it down.

On that basis alone, why any politician seeking government wouldn't accept it defies understanding. Surely, if the concept is such a bad one and one argued by an extreme minority, why don't those who oppose it at least agree to allow it to be the subject of a referendum? If the majority rejected the concept, I would be among the first to admit that my advocacy, in the belief it was a majority view, was wrong. Until the opponents are prepared to accept that challenge, they cannot hope to argue from a position of moral or popular strength and that really does expose their arguments as shabby, desperate and arrogant rubbish.

As a possible sweetener to the objectors, I would say that any government which is truly representative of the will of the majority would hardly ever face a successful direct democracy proposal contrary to its fundamental philosophy. Any government worth its salt would recognise a build up of steam in the electorate on a particular issue of contention and take pragmatic and practical steps to ensure that issue was addressed. In fact, I would contend that it is ultimately in the best interests of all governments because, if they were alert, they could introduce a particular measure in a way closer to their own philosophy than what might emerge from a C.I.R. and, therefore, puncture the ballooning support for the more extreme expression of it. Further, they could bask in the reflected glory and popularity of doing something the majority really did want.

Government today at all levels is increasingly complex and imposes enormous burdens on legislators. In the past, we didn't have today's avalanche of demands from a demanding and volatile electorate, we didn't have law imposed by stealth via agreement to United Nations' Protocols, we didn't have judges who believed that it was their role in life to establish law rather than elected governments and we didn't have vast bureaucratic empires which put their own continuing and expanding existence above everything else.

All of these factors make a robust, unqualified and unfettered direct democracy concept vital. In the past twenty years or so, people have become increasingly cynical about and disbelieving of the political process. They feel betrayed, isolated, ignored and totally fed up.

I don't blame them and even cautiously acknowledge that the merest handful in Queensland might even blame me for their feelings.

However, in defence of politicians generally, I would venture the view that it isn't entirely our own fault although we are in the unique position of being able to do something about it. I want to deal briefly with those realities of life which prevent legislators from doing completely and exactly what the majority of the electorate demands or even, more to the point, what they believe the majority of the electorate demands. Even when considered individually, let alone together, these realities provide solid reason for the introduction of the concept.

Politicians, however hard-working and active, can never hope to honestly know what the majority of people want on all major policy issues and any politician who claims otherwise is either a liar or a fool or both. It is only human nature for all of us -including politicians- to seek the company of those we find most congenial and, while this is undeniably pleasant, it may not necessarily give us a balanced view of community expectations. In fact, it is more likely to give you a wildly distorted view because there is nobody more persuasive and intelligent than someone who agrees with you. While I might regard anybody who referred to me as another Churchill with some circumspection, nevertheless I would find it extremely difficult to dismiss him or her as a complete ratbag and would be inclined to listen to any proffered opinions.

It would be far easier, but not necessarily wiser, to escape from somebody whose opening gambit was the assertion that I was a raving fascist because, despite their plainly obvious inability to come even remotely close to a true character assessment, they might actually have something worthwhile to say on a policy matter.

Certainly, they will have the help of opinion polls and advice from all sorts of sources but, honestly, nobody can ever be really sure. It is also true that those who make the loudest noise are not necessarily the majority - I can recall the vast crowds who came out for Whitlam in 1975 after his dismissal, and, given the unprecedented extent of their defeat at that election, the Labor Party must have really given some serious thought to the often maligned strength of the silent majority.

Therefore, all of us in politics need reminding from time to time of what the majority really wants. If we can be reminded in a way that, however uncomfortable it might be from a policy and philosophy perspective, doesn't mean we will lose our seats and the chance to mend our ways, we should welcome it with open arms.

Having been elected in 1983 as a backbencher member of an exclusively National Party Government, I actually believed that I would have absolutely no trouble obtaining all the services and benefits I believed my electorate needed and deserved. I was very quickly disabused of the notion and I sometimes wondered if my occasional failure was due to either my poor representation or, possibly, ministerial incompetence or indifference or both.

If citizens become frustrated and angry with a lack of action when dealing with the public service, they could reflect upon the fact that ministers suffer the same treatment on more occasions than they would care to acknowledge. Ministers, however, do enjoy the possibly dubious pleasure of having public servants being polite to their face. The added frustration of ministers is that, while knowing that they are supposed to be in charge and while liking to appear to be in charge, they can face the same creative inertia. Remember, I learned this lesson while serving as a Queensland National Party Minister and Premier and, therefore, a senior member of a political organization that had the reputation of being utterly ruthless. God only knows what ministers and premiers in meek governments ever achieve.

I discovered that public service advice was, like the curate's egg, of good and bad parts. In sadly too many ways, I didn't find "Yes Minister" all that hysterically funny because I would have been laughing at myself and my fellow-ministers of all political persuasions around the country and we have far too much dignity for that unseemly display. It is my belief that the mandarins of the public service would, almost to a person, argue against any form of direct democracy because they toil away operating on the brazen assumption that they not only know better than the people, they know better than their own minister.

While we all like to think that the noble principle of ministerial accountability is still a fundamental of our system, we must admit it has become so threadbare and so qualified that it is now often seen more in the breach than the observance.

The power of the public service and the reality of life in government was no better confirmed than by the nasty jolt I received when I was told, after hearing a solid and rational case against some rule of regulation and agreeing wholeheartedly with that case, that this outrageous, obnoxious and grossly unfair bit of nonsense was introduced when I was the Premier and supposed to be running the whole show. I might add, on the credit side, it has been nice when I have been congratulated for a particularly enlightened, progressive and helpful initiative when I was the Premier or the Minister especially when I have absolutely no recall of it at all. What all of this goes to show is that no Prime Minister, Premier or Minister can ever hope to know everything that is going on despite his or her nominal responsibility and you can't accept the praise without taking the blame.

Thus the public service in its several life-forms as departments or as statutory bodies has enormous power. For example, sometimes the effects of something as explained to a Minister by a briefing officer

can be seen as radically different by the end-user - which means voter - yet the Minister must trust his or her adviser and wear the consequences.

The demands and pressures on ministers and other politicians mean increasing delegation and, in effect, a further retreat from truly representing the people. While we deplore that, we often have no choice. If it is difficult enough explaining to people why something did or didn't happen when you were in charge, it is impossible to explain to them why an increasing body of law in this country is derived from the Federal Governments' flagrant abuse of its Foreign Affairs power. Simply, I see that abuse as a corruption of the Constitution and will never accept that we should have law based on an executive decision to sign some United Nations' protocol and, therefore, be accountable to some obscure committee which may well comprise some of the most corrupt and brutal dictatorships on the planet.

In this context, I am more than just bemused by the fact that those who argued that appeals to the privy council in London should be abolished because they diminished our judicial sovereignty are now among the ranks of those justifying this tugging of the forelock to U.N. committees. I might add that the idea that we can't discipline our children because of our agreement to that U.N. Rights Of The Child Convention, for example, has a far greater impact on average Australians than deciding whether or not we have a republic. However, the government which merrily signs these U.N. Conventions and protocols asserts the view that a republic would make us "independent".

There is an increasing and deliberate tendency for judges to take upon themselves the role of "interpreting" the law and not simply upholding and enforcing it. I do not subscribe, and never will subscribe, to any notion that highly paid lawyers have any better idea of what social policy should be than any other citizen and I do not accept that elevation to any bench somehow equates to elevation to the right hand of God.

Judges who strike down laws enacted by elected governments because they see themselves as the "conscience" of society are striking at the very heart of democracy. **I suppose we do have Citizens' Initiated Referenda in this country but only to the extent that the citizens have to be on the High Court.**

If courts are allowed to, in effect, fiddle about with a directly-voted majority view for any reason, then the whole concept will fall flat on its face and that will be the final blow to any hope of a genuine, participatory democracy. If courts do try to do anything beyond ensuring that the will of the majority is enforced, then they should be sent packing because there should be no greater power than the will of the majority.

I openly acknowledge - as all advocates of the concept would - that, politically, it is a two-edged sword. Frankly, if the majority of people in Queensland expressed themselves in favour of, for example, abortion on demand and the complete decriminalisation of marijuana via referenda, I would have to reconsider my personal objections and the reasons in favour long and hard.

Certainly, I would argue strenuously against such proposals and hope that the "No" cases in both instances won, but I wouldn't deny people the right to their say on these important issues simply because I feared my side might lose.

Similarly, those on the left in politics would have very good reason to fear the results of referenda on the Mabo decision or Immigration policy or any number of laws introduced by stealth via the Federal Government's signing of the United Nations Protocols. However, if their commitment to democracy is genuine, they would argue their case and then calmly accept the result. **It really would be truly "power to the people" and all of the bastards would really be kept honest.**

Mr Chairman, the ultimate challenge to those involved in politics is to ensure that all Australians honestly feel that they do have a real say in how they are governed. The people are rightly dissatisfied with the ritual dances of election campaigns every two, three or four years with all their slogans, jingles, cliches and concentration on a few personalities and they want to take back the right to a real self-determination of their own lives and society.

Thank you.