

Now There's Democracy in Iraq - Australia must be next!

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**Presented by
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A lot has happened since Michele Levine and I presented a paper "Only Real Leadership or A Crisis Can Save the L-NP Coalition"¹ on May 23, 2001 in Brisbane to the Price Waterhouse Coopers' Federal Budget Breakfast and on May 22, 2001 in Melbourne to the CEDA Budget Night Presentation – we were talking about a real crisis, like a War! The Federal L-NP Government was saved (re-elected) and we now have had two wars (Afghanistan and Iraq) not one!

Australia is now a significant player in the International arena - US President, George W Bush, and Secretary of State, Colin Powell, now mention Australia in their press conferences!

But seriously, what has changed? What have we learnt from the Coalition's (US, UK and Australia) victory in Iraq? A dictator has gone, corruption eradicated, and a democracy has been founded! Or at least a giant step forward - maybe!

However, what has changed for Australia? In July 1990 I addressed The National Press Club in Canberra. The title of my paper was "Now there's democracy in Russia - Australia must be next!"²

I would say, little has changed since then. No - I would say nothing has changed. In fact, the events of the last few years including the War in Iraq, political crises, and many corporate collapses, (and associated exorbitant corporate remuneration and redundancy packages), have put pressure on many of the fundamentals of democracy as we value it in Australia.

Accurate information is at the heart of democracy today. In the beginning of my 1990 paper, I said:

"Opinion polls and freedom of information are as essential a part of a democratic system as the freedom of speech. Of course, as with any freedom, freedom of information carries with it responsibilities:

- *Responsibility on the part of the **pollster** to conduct and report the research findings **honestly and accurately**;*
- *Responsibility on the part of the **journalists** to report the research **correctly**, in context, and **even-handedly**; and*
- *Responsibility of **political parties** and the **Government** to use this information **properly**, (not for agenda setting by alluding to private poll results which are never authenticated, and not misusing the information in polls).*

On June 3, 1998 I presented to the Property Council of Australia a paper, "Now There's No Corruption in Indonesia - Australia must be next!"³. I then explained the problems Australia faced after 100 years as a country.

In 1901 our "Founding Fathers" set about creating a country which had the potential to be economically viable and geographically equitable. It was at a time when the wealthy "gold" State of Victoria subsidised the poorer States in return for protection of Victorian trade. Today, Victoria is no longer the wealthy State nor does Australia need protected industries in Victoria.

In my 1998 paper I stated:

"It is now 100 years since our founding fathers decided Australia was best served by a Federal System of Government - surely they did not envisage a political system of:

- *Government held to ransom by minority groups. (Today the Senate makes it impossible for any Government to implement election promises.)*
- *A taxation system which benefits the cash society and other tax cheats. Ask a tradesman for two quotes: (i) for payment by cash, (ii) payment by cheque! (Today the GST has changed nothing.)*
- *Parliamentarians and public servants rorting the public purse with tax free perks and their "fringe benefit tax" being paid by the Government. (When will this unfair 'rort' be stopped?)*
- *Only 7% of Australians rate politicians "very high" or "high" for ethics and honesty. (While higher, today it is still low at 16%.)*
- *A "political" judiciary and one which is "intellectually" dishonest; and finally, as I have said on many occasions;*
- *Canberra - Australia's greatest self-made disaster. (It is Australia's real problem.)"*

The issues confronting Australia today are different than in 1901 but not so very different from 1998. They are definitely not, or at least, not limited to, the immediate topics of political discussion - whether the Leader of the Opposition should be changed because the Morgan Poll shows that in L-NP marginal seats 46% prefer Mr Beazley while only 13% prefer Mr Crean. (See Finding Number 3621 <http://www.roymorgan.com/index.cfm?0A329764-50BA-1DC3-65AB-6FD5CE2DDB58&moduleID=100000020&morganPoll=100000586&docType=1>).

Nor is the issue for Australia's future, the popularity of the Prime Minister, Mr Howard, who is looked on by the Australian electorate as a strong decisive leader, not afraid to make the hard decisions. (Mr Howard is preferred by 71%, Mr Crean 19%.) (See Finding Number 3633).

The latest Morgan Poll shows that if a Federal election were held today the vote on a two-party preferred basis would be 50% L-NP/50% ALP – too close to call. (See Finding Number 3633 <http://www.roymorgan.com/index.cfm?0A329995-50BA-1DC3-655A-1027CB12A0F1&moduleID=100000020&morganPoll=100000627&docType=1>).

However, the next Federal election is not being held today. Today the issues which concern the electorate are international (Iraq, terrorism, SARS), while the next Federal election will probably be fought on Australian local issues. If the issues on Federal election day are international the L-NP will win – if they are local, it depends – it depends on the issues and today they are not known.

The real issues facing Australia are much more fundamental.

In my 1998 paper I suggested Australia today needs a clear and well-articulated vision for the future with a global vision.

We might articulate a vision for Australia something along the lines...

“Australia seeks to be an efficient economic unit, with low levels of unemployment, aiming for a better standard of living for all, based on open honest government and business not just in Australia but in the global arena.”

If Australia is to achieve that vision then we must agree to eliminate corruption, dishonesty and misinformation (both financial and intellectual) at all levels - Judiciary, Politics, Government, and Industry.

Corruption today is very different than it was 200 years ago when theft and other forms of corruption were the reasons given for sending many of our forebears to Australia. For instance the recent findings of the Dawson Enquiry into the Trade Practice Act are only the beginning.

“...the ACCC has a rotten record in dealing with section 46 of the Trade Practices Act. Section 46 is supposed to safeguard small business from predatory pricing and the misuse of market power, but it does not work properly. Small-business traders are particularly concerned that the Dawson report on competition law reform failed to come to grips with Section 46.”

G. Batt's Letter to the BRW Editor, May 15-21, 2003 (See Attachment 1)

The Dawson Enquiry should have been broader to include many more areas where illegal price fixing and anti-competitive practices operate today. The solution must be all encompassing.

Today, Australia is not free from political or corporate misinformation, media bias (treachery), and information abuse. It is not surprising that only 9% of Australians rate newspaper journalists "very high" or "high" for ethics and honesty. (See Finding Number 3581 <http://www.roymorgan.com/index.cfm?0A329F91-50BA-1DC3-6588-E14EFE021093&moduleID=100000020&morganPoll=100000508&docType=1>).

Who, in 1990, would have dreamt of the collapse of HIH, One-Tel or Ansett; or the findings of the Cole Royal Commission; or the significant remuneration and redundancy packages (such as paid to George Trumble/Peter Batchelor - AMP, Chris Cuffe – Colonial First State, Brian Gilbertson – BHP Billiton, David Higgins/Sheryl Pressler – Lend Lease,etc) paid to non-performing Senior Executives by Boards most themselves previously Senior Executives; or now proven lies from Federal Ministers (children overboard); or the dishonest executives of Pan Pharmaceuticals - it just goes on and on!

There are no mechanisms for stopping the rorts - the roles, charters and funding of the Australian Securities & Investment Commission (ASIC) and the Australian Stock Exchange (ASX) are too limited. They cannot be either proactive or exhaustive.

So how does the Australian public view this? The polls speak for themselves. Only 16% of Australians rate Directors of Public Companies "very high" or "high" for ethics and honesty, while there are similar low ratings for Stockbrokers (14%) and Union Leaders (11%), Federal Members of Parliament (16%) and State Members of Parliament (17%). (See Finding Number 3581 <http://www.roymorgan.com/index.cfm?0A329F91-50BA-1DC3-6588-E14EFE021093&moduleID=100000020&morganPoll=100000508&docType=1>).

But, even if the public were not aware and disillusioned, the issue remains that open honest Government and Business requires more than keeping the public happy.

Former Prime Minister Sir Robert Menzies in his second Dunrossil Memorial Lecture on March 12, 1968, spoke at length about public opinion polls (see insert). He made the following pertinent point:

“A political leader inevitably reads the published polls. He will learn much from them. But he is no leader if he is persuaded by them to follow a course which he would otherwise not approve. He will do better on appropriate occasions to say - ‘Here is a popular error; I must do my best to correct it!’.”

And Sir Robert Menzies, in a letter to my father (Roy Morgan) of April 4, 1968, said: *“Nobody knows better than I do that the endemic disease in politics is fear of public opinion.”*

“We live in a world of mass-movements, in which public-opinion polls are for so many a quick and easy way of finding out what other people think, and therefore, for the sake of conformity, how they should think. Public opinion polls disturb me greatly; not because I question their accuracy or their integrity, but because of their inherent limitations. The appeal is from Philip Sober to Philip Drunk; from individual judgment and responsibility essential to civilisation, to superficial mass judgment; to finding out ‘what people want’.

I have an old-fashioned lawyer’s prejudice in favour of ascertaining the facts before pronouncing the judgment, and therefore pay little attention to kerbstone opinions.

A political leader inevitably reads the published polls. He will learn much from them. But he is no leader if he is persuaded by them to follow a course which he would otherwise not approve. He will do better on appropriate occasions to say - ‘Here is a popular error; I must do my best to correct it!’

The danger to which I have referred, of the overwhelming of individual judgment by mass opinion, is one which tends to be increased in the new age of the computer. The quick and accurate mathematical machine threatens to become a sort of ‘witch-doctor’.

The human brain and the human spirit are still the creative elements without which true human progress will be arrested.”

Sir Robert Menzies, Dunrossil Lecture, March 12, 1968

Even worse than public opinion driven leadership is the mischievous and dishonest use and publication of public opinion polling as a means of influencing public opinion- as a propaganda mechanism-push polling or more commonly referred to these days as “spin”

I would take Sir Robert Menzies point even further and suggest, public opinion must no longer be acceptable as the final arbiter of legal, moral and ethical issues.

If the public is willing to forgive and forget the Children Overboard charade, does it make it right?

If the public is willing to forgive and forget what the HIH Directors did - does it make it right?

If the public is willing to forgive and forget the GST significant “tax grab” from the ordinary Australians - because we have been distracted by September 11, War in Iraq, and SARS - does this mean it was democratic to introduce such a tax?

The answers are obviously, NO, NO, NO, and NO!

What this means is that there must be an independent set of goal posts - rules - which are upheld honestly and intelligently, with appropriate real sanctions applied systematically and consistently.

This requires honesty, integrity, and a degree of courage, at key levels of society - Corporate Australia; Politicians; Senior Public Servants (policy makers); Police; and the Judiciary.

Only when there are real public sanctions - like prison sentences for corrupt Company Directors - will the public's opinion be at least grounded in reality (instead of spin).

No one forgets Brian Quinn - the public has not forgiven and forgotten that Brian Quinn used Coles Myer shareholder funds to further his own personal interests - by way of a luxury home in Templestowe. The public has also not forgotten Alan Bond. Why have we not forgotten these two? They both went to jail - a memorable and symbolic event - more powerful than any spin that could have been brought to bear.

Finally, the Judiciary itself needs to be subjected to a Governance Code of the very highest standing - an intellectually dishonest Judiciary leaves little hope for the rest of Australians - its role is to protect the whole basis on which a democracy maintains its existence. If such a system fails, then there is no alternative but a dictatorship like that which existed in Iraq.

So what do people want and expect from the Judiciary? Beyond an understanding of the laws, people want Judges to be fair, unbiased and honest, and consistent. We are deeply distressed when a Judge is found to be involved in such things as paedophilia.

And on a personal note, I was deeply distressed when in a recent court case in Queensland I heard the Judge was a shareholder in the company which I was in litigation against. I was more deeply distressed when the Judge first said he had already advised the Court of his shareholding and there had been no complaint (the Court transcripts show this was not true) and then refused to stand down. A Lawyer (from a major Australian firm) on the other side, then produced an affidavit (false) supporting the Judge. I was distressed and depressed – from my perspective the Judge and the entire Judiciary had been compromised.

I believe that in every State, except perhaps Queensland, Australians would be deeply concerned if it were found a Judge sat in judgement of a case when he owned a **substantial** number of shares in the accused company and the same Judge initially lied (gave false information) about making his shareholding known to the Court⁴.

We can't have a Judiciary which sees no problem for a Judge to sit in judgement involving a company when the Judge owns any shares in that company - irrespective of the obviously inadequate fairly recent High Court decision. (Ebner v The Official Trustee and Elenae Pty Ltd v The ANZ Bank which were read together.) The public's distrust of Corporate Australia must be fixed from the 'top' - then there can be no opportunity for perceived bias.

If the public were not dismayed to find that solicitors signed false affidavits (false information) thus lying to the Court, I believe they would be concerned if they knew the same Judge was aware of this, and did nothing about it.

Yet the public is not aware of most of these things, or if such things are made public, they are publicised within the clutter of many other issues – and have no impact.

So we must look seriously at the Judiciary. Since 1998, there have been too many members of the Judiciary convicted of major crimes. What is needed is a means of criminal prosecutions with jail sentences being the outcome, for those in the Judiciary involved in wrong practices. False affidavits (information) are in “Contempt of Court” - they must result in criminal prosecutions, not Judicial platitudes! The system of redress is cumbersome, inadequate and unworkable.

Elimination of corruption requires responsibility:

- It requires a means of making the Judiciary accountable, from the time of appointment through to retirement.
- It requires strong leadership and honesty from all areas of the community.
- It requires honest Government from **both** sides of politics.
- It is essential that both State and Federal Parliaments legislate that jail sentences be imposed for fraud – that includes "civil" fraud. (Today most Corporate and Government corruption is classified as "civil" fraud not "criminal" fraud - convictions then result in fines rather than jail sentences.)

So long as people can “buy” or “lie” their way out of fraud, no one is responsible.

There can be no democracy without responsibility.

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Attachment 1

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LETTERS

BRW.

May 15–21, 2003 BRW.

PARTNERSHIPS OF PROFIT

Although I am a supporter of the present Federal Government, it concerns me that big business is increasingly being permitted to dictate trading policies, and that the result is detrimental to the community. It does not seem to be generally appreciated that small business simply does not have adequate resources to properly fight its cause for a balance between distributors and big retailers on the one hand, and small business on the other. There is a need to protect the small operator from companies that take the easy way out of a marketing problem by squeezing out the smaller players instead of developing a better strategy of their own.

In the oil industry, the two governing laws that protect the many thousands of petrol station franchisees — the Petroleum Retail Marketing Franchise Act and the Sites Act — are about to be repealed in favor of a new industry retail code. The most likely result is that the oil companies will again control petrol retailing throughout Australia, once again to the detriment of small business and the consumer.

The one real protection that small business has is the Trade Practices Act, a responsibility administered by the Australian Competition & Consumer Commission (ACCC). But even this well-meaning law has weaknesses that badly need attention. As Adele Ferguson reports in *CONSUMER BYPASS (Regulation, April 24)*, the ACCC has a rotten record in dealing with section 46 of the Trade Practices Act.

Section 46 is supposed to safeguard small business from predatory pricing and the misuse of market power, but it does not work properly. Small-business traders are particularly concerned that the Dawson report on competition law reform failed to come to grips with Section 46. This is of real concern because the misuse of marketing power is an area easily exploited by big business.

McDonald's used to say: "If our franchisees make money, then we make money too." The Franchise Council of Australia expresses the

same sentiment. Why cannot this concept be made to apply to all businesses in general?

There is a place for big operators and a place for the smaller ones, whether they are franchised or not. If the big operators were to focus on the role that could be played downstream by the smaller operators, then it should be possible to establish an overall chain of supply, distribution and sale in which each business had a part to play. Then a time might come when the big operators would say: "If our community partners make money, then we make money too."

G. BATT, Point Frederick, NSW