
Failure, Chaos and Leadership

Ingredients of Democratic Reform

Kenneth P. Baxter

occasional papers

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Foreword

During the last fifteen years there has been a growing recognition among Australians and their governments of the need for major reforms to our political and economic institutions. Recognition has often, however, not been matched with action.

In this Occasional Paper, delivered as a Bert Kelly Lecture on 9 June 1994, Kenneth P. Baxter considers why recognition of a problem and action to remedy it do not always coincide. Mr Baxter is well qualified to comment on the reform process, having been Deputy Director-General of the Premier's Department of NSW between 1988 and 1992, and having held the position of Secretary of the Victorian Department of Premier and Cabinet since that time.

He observes that reform often flows from a period of 'systems failure'. Sometimes a crisis is necessary to impress upon all concerned the necessity of change. Clearly, though, it is undesirable to let things slip to a point of crisis before action is taken. The critical ingredient in achieving reform without systems failure – and in avoiding chaos if systems do fail – may well be the quality of political leadership. In his paper, he considers the leadership attributes necessary to achieve reform.

What are the prospects of Australia achieving reform without systems failure? Mr Baxter does not think our future is assured. He remarks that it is a 'very short distance between order and chaos.' We risk declining into 'economic, political and social mediocrity', while our Asian neighbours move ahead of us. He looks particularly at the problems generated by our constitutional arrangements, noting frustration with the incapacity of the three tiers of government to clarify their objectives, sort out their differences, and provide Australians with high quality services and low taxes.

There is cause, though, for some measured optimism. Despite its faults, Australia's political system has remained stable – even through periods of political crisis, such as occurred in 1975. Differences between Premiers and Prime Ministers have not prevented the states and the Commonwealth agreeing on some important microeconomic reforms. Mr Baxter argues that so long as Premiers and Prime Ministers share an overall vision, the tensions between them may even be creative.

The CIS is pleased to publish 'Failure, Chaos and Leadership – Ingredients of Democratic Reform', both as an analysis of Australian politics and as part of the effort to prompt recognition of the need for reform before we descend into the chaos of systems failure.

Greg Lindsay
Executive Director

About the Author

Kenneth P. Baxter is Secretary of the Victorian Department of Premier and Cabinet, a position he has held since October 1992. He is also Chairman of the Council of Australian Governments Electricity Industry Reform Committee, a member of the Victorian Superannuation Board, and Chairman of the Australian Dairy Corporation. From 1988 until taking up his current appointment he was Deputy Director-General of the Premier's Department of NSW. He has also been Chairman of the Olympic Games Project Committee and Managing Director of the NSW Egg Corporation. He is the author of *Relationships of Ministers and Departmental Heads* (1992).

Failure, Chaos and Leadership

INGREDIENTS OF DEMOCRATIC REFORM

Kenneth P. Baxter

This is the fourth occasion on which I have delivered a speech commemorating the contribution made by Bert Kelly to Australia's political, economic and social development. The three previous speeches were mistakenly labelled as 'memorials', but the reports of his demise have been premature. This is not a memorial and I hope it does not become one.

Little did I realise about ten months ago when I nominated the title for this lecture that it would be delivered at a time when one of Australia's major political parties was immersed in a debate about its leadership. I should make it very clear that the title for this lecture had its genesis in the aftermath of the July 1992 Council of Australian Governments Meeting in Melbourne where the states and the Commonwealth failed to reach agreement over how to deal with the High Court's decision in the Murray Islands Case. It has nothing to do with the recent leadership changes in the federal Liberal Party or for that matter those which have taken place within the Victorian Labor Party over the last 18 months.

One of the reasons I chose the title was my observation that major reforms often flowed from periods of systems failure. The consequent chaos provides a strong leader with what Harold Macmillan described as a 'window of opportunity' (Horne 1988). Both from my reading and observations I could not find too many instances of major reforms being carefully planned and systematically implemented. However, I sensed that sometimes we had come close to the abyss – and the threat of chaos and even revolution gave impetus to reform,

As I sat at the back of Room K in Victoria's federation Parliament House watching the interaction between the Prime Minister and the Premiers it caused me to think about Bert Kelly, among others, because he has been one of seven quite different people who have had an impact on my thinking about the democratic process, structures of government, the Australian federal system and that ethereal and often elusive characteristic, leadership, which has, is and ever will be at the

kernel of any successful and sustainable political and social system.

There are three writers and philosophers: Chinese strategist Sun-Tzu in his work *The Art of War* (1988 ed.); Thomas Aquinas for his theory of being and the nature of man; and, Machiavelli who provides an undeniably cynical but accurate interpretation of *Realpolitik*.

In no particular order the other three who have influenced my thinking are Churchill – not so much because of his wartime reputation but more because he failed and failed and failed but ultimately triumphed completely and then failed again; Jawaharlal Nehru because he was involved with the development and management of the largest and most cantankerous federal system but also because he understood the deep seated problems of the Westminster system of government.

Nehm, when sitting in prison between 1934 and 1935 astutely observed (Nehru 1962:3):

... may we not express our wonder at the inexhaustible capacity of the British for committees and commissions, each of which, after long labour, produces a learned report – 'a great state document' – which is duly praised and pigeon-holed? And so we get the sensation of moving ahead, of progress, and yet have the advantage of remaining where we are. Honour is satisfied, and vested interests remain untouched and secure. Other countries discuss how to get on; we discuss the brakes and safeguards lest we go too far...

– and that was said 60 years ago!

Another was the irascible Mr Justice Murphy, who, in his lifetime was detested and vilified, but who on reflection had a more modern and adaptable understanding of what the founding fathers thought the Australian Constitution might have meant for Australia as a national entity. The great federal systems such as the United States, Canada and India were either the result of British colonial occupation or evolved from colonial settlement and have given us some clues about what we should look like. However, the clues were not complete, and like Murphy we looked to our own devices or sought inspiration elsewhere. Regrettably, none of the continental federations have had much impact on the Australian (or, for that matter, North American) thinking.

My initial encounter with Murphy's views were over Section 92 (the free trade between the states clause) and the archaic, restrictive and often contradictory interpretations numerous High Courts had put on that Section. The result was as much uncertainty as surrounded the recent *Mabo*¹ decision. I doubt if these decisions have had a positive

impact on the evolution of the structures serving Australia's major agricultural industries (in the case of Section 92) or other industries (in the case of *Mabo*) or with the relationships between the various parties involved within those industries. In many cases the interpretations were seen, no doubt, as in accordance with the law and due process, but were lawyers' views of economics and politics. It also led me to a view that there may be sound reasons for a wider membership of the High Court bench.

At one stage I came across Murphy's decision in the *McGraw-Hinds (Aust.) Pty. Ltd.* case² where he observed inter alia, when discussing implied constitutional rights, that:

... other constitutional implications which are at least as important as that of responsible government, arise from the nature of Australian society. The society professes to be a democratic society – and a union of free people, joined in one Commonwealth with subsidiary political divisions of States and Territories. From the nature of our society an implication arises prohibiting slavery or serfdom. Also from the nature of our society, reinforced by the text in my opinion, an implication arises that the rule of law is to operate, at least in the administration of justice. Again, from the nature of our society, reinforced by parts of the written text, an implication arises that there is to be freedom of movement and freedom of communication. Freedom of movement and freedom of communication are indispensable to a free society.

Importantly, he observed 'the implication raised is not of absolute freedom, but it is at least freedom from arbitrary interference.'

Apart from raising some important implications about the relationship between the 'state' and the market, I also sense that in this approach Murphy anticipated the technological changes which were occurring and giving meaning to what Mr Justice Isaacs said in *Commonwealth v. Kreglinger and Fernau Ltd.* (1926)³:

... constitutions made not for a single occasion, but for the continued life and progress of the community may and, indeed, must be affected in their general meaning and effect by what Lord Watson in *Cooper v. Stuart* (1889) calls, 'the silent operation of constitutional principles.'

The Australian Constitution has to allow the 'continued life and progress of the community.' If it does not it will either become

irrelevant and ignored in practice, or overturned by revolution. While the Australian psyche supposedly is not disposed towards revolution, there have been periods in our history where it has come close.

Australia is a country with a reputation for evolution and compromise, but if you go back to our ancestors and the revolutions of 1642-1649 and 1688, we saw the execution of a king; the declaration of a republic; and the creation of the Levellers, the first secular political party pursuing the inalienable rights of man. The revolution of 1688 was more controlled and has led to the Whig interpretation of English political history as being a process of compromise and political adaptation.

On reflection, it seems Murphy was trying to get to the point where he could balance a modern set of national objectives which would give vent to the national ideal and expectations, but at the same time be bound by the High Court's necessary focus on due process and precedent. Probably without either forethought or knowledge he was trying to translate a document of the turn of the century into what Sun-Tzu described as his Five Working Fundamentals of 'Tao, Nature, Situation, Leadership and Art.'

How can all the ingredients of the Australian political system be brought to recognise that substantial and far reaching changes must be made if Australia is not to become a post-colonial relic on the edge of Asia? Is it capable of happening, or are we so bound up in what Nehru saw as 'the inexhaustible capacity of the British for committees and commissions' (Nehru 1962:3). The key question is, does our Constitution and the framework of variable social and political attitudes within an open democracy allow changes of the kind needed to occur quickly? Do we need a revolution? Or will we somehow or other just muddle through? Or shall we be confined to decline into economic, political and social mediocrity basking in the idyllic south western corner of the Pacific? To some a delightfully decadent hedonism might be very attractive. To others a benign dictatorship with radical changes to our Constitution might be seen as an option.

At one end of the spectrum there are views that a return to the federal-state relations of 1st January 1901, and at the other end the declaration of Australia as a republic, would make significant contributions to giving us the economic, social and political structures which would put us on the economic growth paths of the Asian 'tigers'. Then there are a wide range of views in between included amongst which is the body of opinion that we are so small and so dependent on the major world economies that it does not matter.

There is no simple answer. Every society, even the most basic tribe, reflects a complex set of relationships and it does not take much for order to descend to chaos. Even in the more sophisticated societies it is a very short distance between order and chaos – between success and failure. Also it is very tempting to see short term problems as failures and often moments of chaos are seen as perpetual. Ultimately, success requires a raft of solutions, significant flexibility in our institutional structures and systems, and above all a leader or leaders who have and continue to have a view about our longer term objectives and possess the political cleverness to achieve those objectives.

Australian commentators often look enviously at countries such as Singapore, Thailand, Taiwan, Japan, Indonesia and Malaysia and opine that we should be enjoying their economic growth rates. Our rate of growth is regularly compared with theirs,

However, one of the reasons for the massive growth rates in these countries is found in their political and social circumstances. Even after taking account of their cultural differences many of the governments in the Asian 'tigers' are driving to achieve what we already have – a comprehensively higher standard of living which brings with it the likelihood of more enduring political and social stability.

With many of the Asian 'tigers' coming from a much lower economic base, their growth rates are more likely to be significantly higher than those of Australia. In many of them the social infrastructure needs massive capital investment in water, sewerage, roads, education, health and so on, which we regard as the necessities of life, but which are not widely available. With the exception of Japan and Singapore, personal living standards are generally lower, and the disparity between the rich and poor much greater, than in Australia.

Importantly, their political systems are often much more fragile and malleable than our own and in some cases less relevant to economic and social development. A number of the regimes are striving to develop or maintain democratic systems, but are simultaneously battling with a wide range of pressures which produce recurring instability or benign dictatorship.

Within a number of these 'tiger' economies there are fewer problems in balancing the demands of economic growth with social and political consensus because the leadership has adopted the view that economic growth at any price is probably the only means of achieving longer term political and social stability.

The success of a number of the 'tigers' flows from very strong personal leadership, e.g. Lee Kuan Yew in Singapore and a less

complicated assessment and pursuit of objectives. It is too early to accurately judge if the 'unitary' or 'federal' systems in the 'tiger' economies will produce the best results.

In considering our future we should not ignore that many of these 'tiger' economies have these enormous problems – lower living standards; inadequate infrastructure; high levels of pollution and ethnic and cultural attitudes with differing views about individual rights. Consequently we cannot merely translate solutions from one system to another. Many of them have argued, with some justification, that human rights and empty stomachs are incompatible.

Our challenge is how we meet the ideals and expectations of the majority of Australians but simultaneously meld in with our geographical neighbours.

One of our real problems is that we are a nation in transition. We are probably going through one of our major periods of change – similar to that of the late 1890s pre-federation and the early 1970s. We are like the pimply faced teenager who is leaving his or her parents and coping with a new world, creating new friends and working in a strange and often unfriendly environment but with many of the signs, symbols and mores of the previous generation still present.

Our links have been traditionally European and predominantly Anglo-Saxon. Our social attitudes, our legal structures and our political systems are based on Anglo-Saxon principles. However, we all know that those parental links have largely diminished and our future lies 'East of Suez'.

However, 'East of Suez' is not one homogeneous bloc. Social, religious and political attitudes vary considerably. It is impossible to design a political and social system which neatly meshes with all of Asia and enables us to have political and social influence with and operate in the markets of these countries which are as politically diverse as India and China or as economically opposite as Japan and Burma.

A great deal will depend on the Asian countries' perceptions of Australia. In some cases the perceptions and realities do not coincide. In brief, we have to be politically and economically useful to them as well as being able to make a contribution to their economic, social and political development.

We should not understate the fact that Australia's federal system, no matter its faults, has maintained a relatively high degree of political stability. We have never, at a national level since World War II, faced the sort of problems which currently confront a unitary state such as

Japan. The federal system has maintained a set of checks and balances which have reflected our geographic immensity and concentration of population.

The three key ingredients in that system – the national government, the state governments and the High Court – have ebbed and flowed in their relationships. The Commonwealth has gained a monopoly on income taxation and the High Court has circumscribed the power of the states in certain key areas. However, the states, especially if acting in concert, still have the power to influence the nature and pace of change.

At times there have been periods of turmoil and uncertainty but I do not think we have descended into dissolving chaos – 1975 might have been the one time since federation when we came close to it, but it was temporary only. Had the people's feelings been more deep seated, and if an election had not been held so promptly, we could have had a revolution and the structures of government would not have remained credible.

It will always remain a matter of conjecture as to whether or not the Australian population would have been prepared to wait until the next election or whether something more dramatic may have occurred if the Governor-General had not intervened. My own feeling is that most likely they would have waited, but the political losses may have been even greater than they were.

There was certainly a body of opinion which supported the recognition of mainland China and similar actions but was appalled at the management of the economy. While there was a return to a conservative government, I sense there was and continues to be a frustration in sections of the community about the capacity of our Constitution, political and legal structures and political parties to respond to what is seen on the one hand as a need for a positive, dynamic role in Asia, and on the other improved living standards for Australians.

There is certainly a frustration with what is perceived as an incapacity of the three tiers of government to 'get on with the job' – clarify their objectives, sort out their differences and provide Australians with high quality services and low taxes. There is also a frustration with what Ferdinand Mount, in his controversial book *The British Constitution Now – Recovery or Decline?*, describes as 'the rigid legalism which blights the lives of the Americans, the Swiss and the other peoples who have the misfortune to be ruled by federalism ...' (Mount 1992:9). This is not to suggest we should become a unitary

state, but at least we should try to sensibly overcome the imperfections of our federal system.

There are numerous manifestations of these frustrations, but as yet they have not coalesced into sustained momentum for massive changes.

In terms of the Constitution it will take phenomenal economic failure and political chaos to prompt radical change. It is likely that even if radical reform is required the electorate will not carry a referendum for constitutional change. Short of a revolution, any political or economic reformer must accept that change will have to take place within the current constitutional restraints. It will therefore have to attract a wide degree of community support at a referendum, or be achieved by shifts in community attitudes or market circumstances forcing the High Court to change the meaning of the Constitution – as I believe it did with the *Franklin Dam* and many of the Section 92 cases.

While addressing the problems of an unwritten constitution, it seems to me Ferdinand Mount provides us with some simple tenets about what should be the characteristics of a flexible, effective constitution and the accompanying political system:

- (1) **Simplicity** – no additional burden of government on the citizen. The limitation of government should remain a priority.
- (2) **Stability** – a system that is more, not less steady and consistent in the legislation and administration that it delivers.
- (3) **Separation** – clarification of the separation between the executive, the legislature and the judiciary should be favourably considered in the interest of improving individual liberty and transparency of government.
- (4) **Subsidiarity** – functions to be exercised at the lowest practicable level of government – dispersal or devolution and democracy are intimately linked. Traditionally, it would appear that devolution of functions will focus the national, state and local governments on needs or what are their core functions.
- (5) **Patriation** – giving constitutional expression to national independence, national legal and political institutions should promote our interests, protect our rights and liberties, and deal with our grievances.

In the Australian context the notion of subsidiarity is currently uppermost in our minds, and will be reflected in the discussion at the

Council of Australian Governments (COAG) meeting in August 1994 when 'Roles and Responsibilities' are discussed.

There are some areas which are clearly and absolutely the role of a national government, e.g. foreign affairs and defence. There are areas of service delivery such as health, education and justice which have been the preserve of the states but which, because of the changes in funding arrangements, the Commonwealth has become involved in at a policy level and even in some cases, with service delivery. In some instances the Commonwealth has assumed the role; in others it has moved into a vacuum because the states have been unable to agree; and in others the states have willingly involved the Commonwealth.

It is not my intention to canvass the issues surrounding roles and responsibilities. That will be done amply by the Prime Minister and the Premiers in August. In this lecture my main concern is to look at principles, structures and how changes might be made.

There are certainly some signs that there is support for three of Muntz's principles – simplicity, stability and subsidiarity. Separation is an issue in which the principle is accepted and largely adopted. Patriation is implied but there is considerable fuzziness about how effectively it is applied.

The subsidiarity issue is the one which will create most heat. Protected bureaucracies which have been used to manipulating inputs without much concern for outcomes – especially for those most in need – will resist strongly any attempt to move towards dispersal of service delivery and retention, at best, of a consistency of policy and monitoring role. Health and education are two massive areas, in terms of outcomes and budgets, where the vested interest groups will resist the reorientation towards the user or buyer of the service, as against the providers.

Both are areas in which you would not wish to see the systems fail or chaos descend in order to secure positive reform. Although one is inclined to the view that if the Victorian education system and the state's finances had not been in such a parlous state radical reform would not have been possible.

This brings me to the role of leadership. The empirical evidence suggests that the structures and processes can be right but it will all be for naught if political leadership is weak or non-existent. The structures and processes may prolong a weak political leader but ultimately political power will shift or the system will collapse.

Any discussion about 'leadership' and its relationship to democratic reform poses considerable difficulty because much of the

analysis is subjective. Leadership, like beauty, is often in the eye of the beholder. Indicators like political stability, high employment, improving standards of living, low inflation and so on are usually seen as the manifestation of a successful leader.

However, I suggest they alone are not sufficient. Those indicators on their own suggest a static analysis, a retention of the status quo and reluctance to try to prepare for the future. It may be possible to argue that some of the difficulties we are encountering with our involvement in Asia are a result of a very long period of avoiding the reality that our situation changed dramatically when Britain joined the EEC.

I would also accept that in a political system like ours it is very difficult for a Prime Minister or Premier to pursue a view about the future if his or her Party does not enjoy a majority in both houses of Parliament and his or her own Party does not share the leader's common view about the future.

As both Sir Ivor Jennings in his *The Law of the Constitution* and John Morley in his book on Walpole have pointed out, the legal head of the party if he is a man of ability becomes 'the real leader' (Jennings 1933:234) and the power of the Prime Minister was 'not inferior to that of a dictator, provided that the House of Commons will stand by him' (Morley 1889: 158).

In Britain the dynamics of leadership and substantive change are less complicated because of the unitary system (but not helped by enduring problems such as those with Northern Ireland). In Australia the dynamics are more complex. Not only do we have a federal system, but additional complications are created because the Senate is elected by proportional representation with equal numbers from each state.

There is no doubt that in some areas the Commonwealth has the power to force through measures. Governments of both political complexions have done so. While that may be politically attractive, and seen as necessary, it consumes political capital and over the longer term may not be conducive to sustaining long term national unity. At a time when we were less significant in the regional economy an international perception of national unity may not have mattered much. When we are trying to establish our credentials I think it does and will matter.

This makes leadership roles very important. If we are to proceed into Asia and simultaneously improve Australia's living standards it means that a delicate balance has to be maintained if the federation is to work in the national interest. There are three key leadership elements:

- (i) vision;
- (ii) power; and,
- (iii) style.

On **vision** – there must be a clear picture of the longer term principal objectives.

On **power** – the leader must have the authority to exercise his or her role and should have a clear majority in both Houses of Parliament. I am doubtful if Australia can afford the indulgence of independents at such a critical time of its evolution. While they may make people feel warm and comfortable, they hold and wield power disproportionate to the number of people who elected them. It is often overlooked that government is elected to make decisions for the majority, for the 'common good'.

On **style** – a leader must have the capacity to motivate the electorate and convince it the objectives will be met and the vision fulfilled.

Each of our political leaders is different. They reflect the diversity of constituencies – currently five are from conservative political parties and two from the ALP. Australian history has shown that there can be significant differences between Premiers and a Prime Minister on a particular issue, but if the overall vision is similar the tensions may be creative or even essential for change.

If the prognostications are correct, and Australia is entering a period of sustained economic recovery, it will place more reliance on the cooperation of our leaders to develop a cohesive national approach to our economic and social development and our international role. In the absence of any traumatic event producing the systematic failures and ensuing chaos which might precipitate reform, it will be rationality, logic, good policy and strong political will which takes us into the future.

I am not sure the current structures and processes will necessarily produce the best results. The Prime Minister and the Premiers meet three times a year and one of these meetings is, usually, totally adversarial because the argument is about money. The two other meetings are of the Council of Australian Governments (COAG), which is the successor to the Special Premiers' Conferences.

The Special Premiers' Conferences and COAG have moved us closer to a better working relationship. A great deal of the micro-economic reform program has proceeded because of COAG. Had it been left to bilateral negotiations between individual states and the

Commonwealth, I do not think much of it would have occurred, let alone proceeded as far as it has. My real concern is that without the pressure which arises because the electorate understands there is a state of crisis we may be tempted to lapse into complacency and close the window of opportunity for achieving reform, improving our economy and raising our living standards.

So far our key political leaders seem to have demonstrated the vision, the power and the style in varying ways to maintain the creative tension which is a substitute for failure and chaos. There is certainly no reluctance on the part of most of my colleagues at a federal and state level to support the reforms and ensure that the vision is fulfilled. Many of us sat at the back of the committee rooms and other places when Bert Kelly was proselytising and had great sympathy for his views. We would hate to see what he started dissipate. Our view has been as George Bush expressed it (NCPS 1989: 11):

What I think it all boils down to is leadership. Leadership in the White House and leadership in the United States Congress. Don't blame those that make a lifetime of service to the Government: give them the kind of leadership they need and they'll follow and get the job done.

What we do not want to see is failure and chaos as the initiators of reform in a democratic society. We must do all we can to make our Constitution, the structures and processes as flexible as possible to deliver the reform as long as the vision is proclaimed, the objectives clearly stated, and the political will to deliver them is sustained.

Notes

- 1 *Mabo & Others v. State of Queensland* (1992) 107 ALR 1
- 2 144 CLR 633 at 670
- 3 37 CLR at 393

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Failure, Chaos and Leadership

Ingredients of Democratic Reform

Kenneth P. Baxter

In this Occasional Paper, delivered as a Bert Kelly Lecture in June 1994, Kenneth P. Baxter says that substantial and far-reaching changes must be made if Australia is not to become a 'post-colonial relic on the edge of Asia.' The question he considers is whether our political system can cope with the necessary scale and pace of change.

He sees some grounds for pessimism. Sometimes it takes 'systems failure' to force remedial action. Unfortunately there is no guarantee that systems failure will lead to positive reforms. Despite traditions of evolution and compromise in democracies taking their inspiration from Britain, the chaos flowing from systems failure could lead to national decline, and perhaps even revolution.

In his view the key to a better outcome is good leadership. The vision, power and style of a good leader can turn the possibility of chaos into a window of opportunity for constructive change. Will Australia's leaders be able to overcome the difficulties created by our political system and achieve the necessary reforms?

Kenneth P. Baxter is Secretary of the Victorian Department of Premier and Cabinet, a position he has held since October 1992. Prior to this, he was Deputy Director-General of the Premier's Department of NSW.

The Bert Kelly Lectures are a national lecture series hosted by the Centre for Independent Studies. The lectures encourage debate on important national issues, and cover subjects such as constitutional change, the environment and Australia's relations with Asia.



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