The Governance of Public Policy: Lectures in Honour of Eminent Australians

Gary Banks

The Inaugural Peter Karmel Lecture,
Stan Kelly Lecture 2013,
Garran Oration 2013
and the Sir John Crawford Lecture 2014

the Australia and New Zealand
School of Government

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Publications Inquiries:

Marketing and Communications

The Australia and New Zealand School of Government (ANZSOG)

PO Box 230 Carlton South VIC 3053

Tel: +61 3 8344 1990

Email: marketing@anzsog.edu.au

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School of Government

The Governance of Public Policy: **Lectures in Honour of Eminent Australians**

Gary Banks

**The Inaugural Peter Karmel Lecture,
Stan Kelly Lecture 2013,
Garran Oration 2013
and the Sir John Crawford Lecture 2014**

Professor Gary Banks AO

Gary Banks commenced as Chief Executive and Dean of the Australia and New Zealand School of Government (ANZSOG) in early 2013 after nearly 15 years heading the Productivity Commission. Trained in economics at Monash University and the Australia National University, his early career was spent at the GATT (now World Trade Organisation) in Geneva and at the Trade Policy Research Centre, London. On returning to Canberra in the mid-1980s, he worked at the Office of National Assessments, the Industries Assistance Commission and then as a consultant with the Centre for International Economics.

He was appointed to the Industry Commission in 1990 under the Hawke Government and as Chairman of the newly established Productivity Commission in 1998 under the Howard Government. As well as overseeing a broadening of the Commission's role and influence, he presided on public inquiries in policy areas such as infrastructure, industry assistance, health, carbon abatement and executive remuneration. He also chaired the Council of Australian Governments' Review of Government Services and had responsibility for the Office of Regulation Review. Among his other activities, he was a member of the 1997 'West Review' of Higher Education Policy and in 2005–6 headed the Prime Minister's Regulation Taskforce.

In addition to his role at ANZSOG, Gary Banks currently chairs the OECD's Regulatory Policy Committee, is on the board of the Macquarie Group and is a member of the Prime Minister's Business Advisory Council. His contributions to public policy have been recognised through various awards and honours, including the Economic Society's inaugural Distinguished Public Policy Fellows Award and the Order of Australia.

Acknowledgments

Three of the lectures in this volume have been published elsewhere: the Inaugural Peter Karmel Lecture was published on-line by the Academy of Social Sciences in Australia shortly after its delivery, and subsequently in edited form in Prasser and Tracey (2014); the Stan Kelly Lecture has appeared in the *Economic Papers* of the Economic Society of Australia (vol. 32, no. 4, December 2013, pp. 405–416); and the Garran Oration, delivered in late 2013 for the Institute of Public Administration Australia (IPAA), has been published in its *Australian Journal of Public Administration* (vol. 73, no. 1, March 2014, pp. 1–13). They are brought together here to make them accessible to a wider audience.

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Foreword

Few public organisations have been as important to the economic well-being of Australians as the Productivity Commission and its antecedents. That may seem an unusual thing to say. After all, the Productivity Commission makes no policy decisions and has no power to do so. Its staff are usually less in the news than those of some other bodies, and less familiar to the public than government ministers or business leaders.

But the power of the Commission lies in the rigour of its analysis, the transparency of its process, the independence and balance of its conclusions. These capabilities have been tremendously influential in shaping Australian discourse about what helps, or hinders, long-run economic performance. On occasions when the political leadership was willing to harness them, they contributed powerfully to far-sighted decisions which raised living standards. That the original Tariff Board, charged with designing protection for Australian industry in another era, was transformed to become such a powerful force for highlighting the costs to the community of protection and other anti-competitive measures, is all the more remarkable.

Individual contributions have been important in this journey, some of them examined in these pages. A great strength of the Commission has long been the quality and integrity of its own leadership, where intellectual rigour was leavened with an astute pragmatism. When it was metaphorically suggested, for example, that the Commission had a list of productivity-enhancing things to do which governments might action, there wasn't actually a physical list. But Gary Banks sensed the opportunity to press the case for reform and duly obliged with quite an extensive one.

In this series of lectures, Gary covers, with his customary incisive clarity, issues of major importance for the conduct of policies across a wide front, in Australia or anywhere else. Themes such as the public interest (as distinct from various private interests), the role of advisers and the public service, the importance of proper process and the characteristics of successful reforms, are all canvassed by someone who had a unique vantage point over a long period. That combination of intellectual rigour and realism as to how to secure support for reform is on display throughout. From the Commission's longest-serving Chairman – now Dean of ANZSOG – there is much accumulated wisdom in the pages that follow.

Glenn Stevens
Governor
Reserve Bank of Australia
August 2014

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Public Inquiries, Public Policy and the Public Interest

The Inaugural Peter Karmel Lecture, Academy of Social Sciences in Australia, Canberra, 3 July 2013

Public Inquiries, Public Policy and the Public Interest

Introduction

I feel privileged to have been invited to give the first lecture in this series in memory of Peter Karmel. Professor Karmel's important contributions to public policy in Australia are well known. The Academy of the Social Sciences' tribute is a fitting one, which should in itself make a useful contribution to public policy discussion in the years ahead.

For this first lecture, I have chosen to focus on a key strand of Peter Karmel's own contribution: namely, the role of public inquiries in securing better public policy. Professor Karmel led or participated in a number of such inquiries throughout his career, a notable early example being his influential report on school funding for the Whitlam Government (Karmel et al. 1973).

As a young economics graduate, newly enlisted in the public service, I took a close interest in the Karmel Commission and subsequent developments. But it was not until a few decades later, as a member of an education review committee myself – the West Review of Higher Education Policy – that I first got to meet Peter Karmel in person.

Characteristically, he had asked to meet with the committee to warm us to the themes contained in his forthcoming submission. At that time he was not in good health, but he made a very strong impression on the committee. And the thinking in his submission had a significant influence on our subsequent report (Higher Education Financing and Policy Review Committee 1998). What stood out was not just the power of his mind and his skill in constructing his case but his resolute concern for the public interest, a concern that was often less apparent in other submissions.

It seems timely to be reflecting on the role of public inquiries. For one thing, we have seen an unprecedented number of them in recent years, in part resulting from the hyperactivity of the (first) Rudd Administration. For another thing, the Federal Opposition has foreshadowed a good deal more, should it win government in a couple of months' time. Some of those reviews will be traversing territory covered by previous reviews, which raises questions about the value of these. Moreover, notwithstanding all this review activity, there has arguably never been a time when there has been so much contention and division about so many important public policy issues.

This stands in contrast to the experience of the economic reform era of the 1980s and 1990s, when public inquiries preceded most of the major reforms, yielding large and enduring benefits (the Campbell financial markets inquiry (Committee of Inquiry into the Australian Financial System 1981), the Hilmer Competition Review (Hilmer et al. 1993) and the Industry Commission energy markets inquiry (Industry Commission 1991) being just three.

What, if anything, has changed? Have public inquiries lost some of their ability to foster 'successful' public policies: policies that not only do good but are accepted as such? If so, does it matter and what, if anything, can be done about it? These are some of the questions I want to address in this lecture.

It will be obvious that the perspectives I bring are coloured by personal experience, particularly from many years spent at the Productivity Commission (PC) and its predecessors, but also by my involvement in the aforementioned West Review and the Prime Minister's Regulation Taskforce in 2006 (Banks et al. 2006).

One of the more basic practical insights that I gained early on in the 'inquiry game' was that very few people actually *read* inquiry reports. And no-one, except perhaps the hapless review chair, reads them in their *entirety*. Summaries are therefore essential to a report's influence. Even then, a summary needs to be pretty engaging and no longer than ten pages if its content is to be widely absorbed, something that I must confess I had great trouble enforcing while Chairman of the Commission (even in my own inquiries).

Those with least time of all to read inquiry reports are the ministers to whom they are directed, who as a result tend to rely on the interpretations of others, including their personal advisers and the media (whose understanding of a report is often gained through a process akin to a 'random walk'). With this in mind, the Commission introduced the innovation of a 'key points' box at the front of every one of its reports – so that even a very busy prime minister or opposition leader could find time to extract the essentials of a report at first hand.

And that is how I shall commence this lecture; for I fear that, in written form, it has breached the ten-page rule!

Key points

- Public inquiries can be a powerful device for securing better policies.
- There is an increasing need for them, reflecting

  – declining analytical capability of the public service

  – complexity and contention of many policy issues

  – a loss of trust in government.
- They can be of particular value to an *incoming* government

  – for 'repositioning', and credibly underpinning major changes to policies of the previous government.
- But their contribution is not assured and it has varied greatly in the past.
- How successful inquiries turn out to be depends on how they are framed and constituted, and how well a government handles their reports.

  – Timing and governance matter a lot.
- It is also important that not too many inquiries are undertaken at once.

  – Close attention to prioritisation and sequencing is needed.

What *is* a 'public inquiry'?

The essence of a public inquiry (or other reviews, taskforces, etc. covered here) is that it takes place as a discrete activity, at 'arm's length' from the executive and from policy departments in particular. It is appointed by and provides recommendations to government, but it has no power or role in relation to their implementation or subsequent administration. In other words, it provides policy-relevant information and advice at the front-end of the 'policy cycle' and on a 'take it or leave it' basis. Key features of that advice are its publicness: it responds to public terms of reference, draws on public submissions and is ultimately made public.

The definition of a public inquiry that I am adopting for this lecture is looser than that found in scholarly works, and notably those by Scott Prasser (Prasser 2006), as it includes reviews conducted by the Productivity Commission. I defend that on the basis that although the Productivity Commission is a standing body, the inquiries that it conducts share the ad hoc and once-off character of royal commissions and other inquiries in relation to topics, and because they have played an important role over the years.

They also happen to be the inquiries I know best! (I am not covering parliamentary inquiries, however. Although of relevance, they are birds of a different feather and would need separate consideration.)

It will also become apparent that I am not seeking to be 'comprehensive' in the reviews that I cite, even in relation to those by the Productivity Commission. Rather, I have erred on the side of using more recent or memorable examples that will still be familiar to a general audience. (It must be said that of the hundreds of inquiries and reviews that have taken place over the years, not many remain memorable.) This means that some reviews get multiple mentions in different contexts, even though examples from earlier periods could have served to make the same point.

How can a public inquiry 'add value'?

It seems self-evident from their extensive use of public inquiries and other arm's length reviews that governments see considerable value in them. Their motivations from a policy perspective vary, however, generally falling into one or more of three categories:

1. To vindicate or substantiate a policy course already followed or intended (e.g. the review of stimulus spending or the 2012 Review of the Fair Work Act).
2. To determine how preferred policy directions should be specifically framed or designed (e.g. the Productivity Commission's paid parental leave (PC 2009) and disability (PC 2012a) inquiries).
3. To help establish what the policy approach in a specific area should be, whether by reviewing existing policies (e.g. taxation) or addressing a 'new' issue (e.g. greenhouse effects or population ageing).

It is sometimes suggested that, in initiating public inquiries or reviews, governments can be motivated more by the desire to *avoid* having to take policy action, or at least defer the need for it. Such motives are no doubt real, but they can be subsumed within the others. No action effectively means supporting the policy status quo (first motive); and deferring action, which though maligned is often a beneficial strategy all round, is merely about the timing of all three. Similarly, the occasional attraction of inquiries as a means of showing concern for an issue of (temporary) importance to the public, without having to do anything substantive about it, would fall into the first category (if it succeeded).

My principal interest here, however, is not just in how inquiries can help governments get what they want, but rather in how they can help get better outcomes for society. Ultimately, if Harry S Truman's dictum that 'good policy is good politics' is correct, as I believe it is, there should be little difference – although observed behaviour suggests that this may not currently be widely believed.

So how in principle might public inquiries be able to contribute to achieving better policy outcomes for society? This is best answered by considering separately two dimensions of the 'policy challenge': the technical – determining *what* to do, and the political – getting it agreed. (There is a third dimension, getting it *implemented*, which is just as important but not something that I need go into here.)

Technical support

Contrary to what many seem to think, few solutions to policy problems are self-evident or can be lifted from a textbook, or even from another country's practice. Some analysis of the specific nature of the problem and likely impacts of different options, including their interaction with existing policies, will generally be required. This should be core business for the bureaucracy, but, depending on the topic, there will not always be the necessary skills on tap, particularly where more specialised or in-depth research is required. Nor will there always be the capacity (or latitude) to undertake necessary public consultations. This is particularly relevant for policy issues that cut across different portfolios or jurisdictions, or where the problems or issues are new or highly contentious.

The consequent need for 'outside help' of some kind has arguably increased in recent years. For one thing, the analytical capacity of the bureaucracy appears to have been in decline. Few departments today have in-house research units, and generalists have been displacing specialists at those levels of the bureaucracy where policy analysis has traditionally been undertaken. This is at least part of the reason why the Productivity Commission has been able to extend its influence into areas of policy that in earlier years policy departments keenly protected from outside interference. At the same time, we have also seen increasing resort to external consultancies, even for core policy development activities.

These developments are often attributed to budgetary pressures impacting on training and research, which no doubt has been a factor. In my view, another more fundamental contributors have been the emerging ethos of 'responsiveness' (read 'passivity' and 'reactiveness') in the public service, the related power shift to ministerial offices, and the consequently reduced attractiveness of a public service career for smart analysts – compounded no doubt by the rise in alternative sources of employment for them. (But these are issues for another occasion – see my Garran Oration in this volume.)

As well, the scope for public servants to engage externally on matters related to the development and design of policy appears to have become more circumscribed. There have been a number of 'mishaps' in recent years with unintended consequences that even cursory consultation with business would have helped avoid. (One example that I observed at close quarters was the ill-fated initial changes to tax rules for employee shares schemes, announced ahead of the Productivity

Commission's inquiry into executive remuneration (PC 2010a)). Why this has been so is a matter for speculation, but more highly sensitised and short-termist politics have not helped.

In these circumstances, public inquiries provide a means of marshalling dedicated expertise, as well as enabling public consultation on policy options to occur without exposing government politically. For an *incoming* government, they offer the further advantage of providing some control over who does the job, in circumstances where a new government may feel uncertain about the capability or 'inclination' of incumbent bureaucrats – particularly where these helped design the policies or programs that it wants to reform. (The National Broadband Network and carbon policy may be cases in point.)

Political benefits

While public inquiries can in such ways help address technical challenges in policy development, their ability to improve the *political* environment for policy change is arguably even more important. There are multiple dimensions to this:

- First, a policy initiative based on the advice of credible outside experts will generally be easier to 'sell' to the public and the parliament. (The National Competition Policy (NCP) is an important example.)
- Second, and related to this, public inquiry processes can serve to 'educate' the public and help build broader support for policy change. (The Productivity Commission inquiry into a national disability insurance scheme.)
- Third, public inquiries can also diminish the credibility and influence of special interest groups, by exposing self-serving arguments and demonstrating adverse impacts on the community (e.g. gambling.)
- Fourth, they can enable a government to credibly defer taking action in response to an emerging 'issue' – allowing time for some of the heat or fuss to subside, as well as enabling a more considered response (e.g. executive remuneration.)
- Fifth, they can provide an opportunity for government to observe the behaviour of different interest groups and, in particular, see how they react to different policy proposals, enabling better informed political judgements about what policy features will ultimately 'fly' (e.g. lifetime community rating in private health insurance).
- Finally, in helping governments deliver policies that work and that demonstrably benefit the community, they can engender public support for genuine reform and promote trust in government itself.

A potential downside politically of course is that, once in train, public inquiries can make it harder for a government to avoid adopting policy options that the inquiries end up recommending. (The Regulation Taskforce, the gambling inquiries by the Productivity Commission (PC 2010b) and Ross Garnaut's first climate change review (Garnaut 2008) are possible examples.)

Once again, for an incoming government, public inquiries can have further distinct political advantages. They can provide a credible pretext for modifying problematic parts of a policy platform developed in opposition. (This is less used than it should be in my view. The paid parental leave issue comes to mind as an opportunity.) They can also provide a new government with ‘authority’ to dismantle a policy introduced by its predecessors, in circumstances where such actions may otherwise be highly contentious or interpreted as merely ideological. In this way, they may secure policy outcomes that are not only in the public interest, but that will also be less vulnerable to reversal with another change in government. The most important example currently is industrial relations, where the Opposition has signalled that the Productivity Commission will be asked to undertake a thorough review of the existing regulatory framework, on the strength of which it would take any substantive reform proposals to the subsequent election.

What connotes ‘success’?

It follows that, to be judged ‘successful’ from a public interest perspective, an inquiry or review needs to achieve more than having an impact on policy: it needs to do so in a way that can ultimately lead to better outcomes.

Various examples come to mind of inquiries, or at least key recommendations, that managed to pass the first test of having an impact but failed the second one of achieving better outcomes. One of the more recent is the 2011 inquiry into coastal shipping – admittedly, by a parliamentary committee – which led to legislative changes that may benefit Australian ship making and our local marine workforce, but at significant net cost to the Australian economy and community (House of Representatives 2008).

By the same token, there have been many review recommendations that would have met the second test but did not clear the *first* hurdle relating to impact. The Productivity Commission has a long list of them (Banks 2012a). Its inquiry into restrictions on book imports is a recent high-profile example (PC 2010c); its recommendation for a public interest test in anti-dumping processes (PC 2011a) is another. Among some from the Howard Government era were the Commission’s Broadcasting Report (PC 2000a) and its inquiry recommending an end to freight-equalisation subsidies for Bass Strait shipping (PC 2007).

Occasionally, a public inquiry will fail on *all* counts, its recommendations neither being taken forward by government nor likely to benefit the community in the long term. A very recent example is the Finkelstein Inquiry recommendations relating to freedom of the press (Finkelstein 2012).

Increasing the prospects of success

So what are the preconditions for a ‘successful’ inquiry? While the performance of those involved in one is obviously a factor, the most important determinants are in government’s own hands. There are six areas in my view that are particularly important.

Selecting the right topic

Public inquiries or reviews can involve considerable set-up costs and extensive public participation. They therefore need to be reserved for issues that warrant the effort. It follows from points already made that inquiries will generally be best suited to issues that are both technically complex and politically contentious, and where there is much at stake for society in ‘getting it right’.

Complexity alone is unlikely to provide sufficient justification, as experts can always be called in without the need for a full-blown inquiry (unless complexity relates to the potential for creating losers and winners, which might then satisfy the ‘contentious’ criterion). However, an issue which is not technically very complex, but is highly contentious, could still warrant an arm’s-length review if the gains from getting policy change are potentially large. Tariff protection is a case in point. It has always been relatively simple to analyse, but reforms in the national interest have confronted strong and politically influential resistance from sectional interests. Inquiries have enabled their claims to be publicly scrutinised, faulty arguments exposed, and for the benefits (and beneficiaries) from specific reforms to be identified.

Scanning the large number of reviews that have taken place over the past decade or so, it is hard to find many areas that involved no political sensitivities at all. And most reviews, seen in isolation, address issues or topics where the benefits from improved policy outcomes would more than outweigh the costs of the reviews. However, the stakes for Australia have varied greatly. This is true even for the Productivity Commission, where significant effort has generally been devoted to screening and selecting topics. Thus, in my time, the Commission undertook reviews on such topics as private health insurance, consumer policy, electricity network regulation and broadcasting, at one end of the scale; and battery egg sales in the ACT and local government exemptions from section 20 of the Trade Practices Act at the other end.

Perversely, the sheer number of reviews at times has diminished their contribution, including for some of the most important ones. For example, in 2008–09 major reviews were simultaneously underway for higher education (Bradley et al. 2008), health (National Health and Hospitals Reform Commission 2009), taxation (Henry et al. 2010), defence (Department of Defence 2009), climate change (Garnaut 2008), innovation (Cutler et al. 2008), quarantine (Beale et al. 2008), 457 migration visas (Deegan 2008), national infrastructure (Infrastructure Australia 2009) and assistance to the car and textiles industries (Bracks et al. 2008; Green 2008). This is aside from several important inquiries by the Productivity Commission (including consumer policy, paid parental leave and drought policy) and many others of lesser significance.

The failure of some of the most important of these inquiries to realise their potential can no doubt be attributed at least in part to the inability of government to devote the attention to them that was needed, particularly at the crucial response and implementation stage. Arguably, advancing tax reform or health system reform alone on the scale envisaged could have fully occupied the first term of even the most ambitious and competent government.

Asking the right questions

The old saying about ‘asking a silly question’ is apt for public inquiries. The potential contribution of an inquiry obviously depends on what it is expressly required to report on within a particular area of public policy. It will always be important to the commissioning government that an inquiry be *directed* – that it not become ‘a happy hunting ground’ or loose cannon. However, if it is directed to do unproductive things as part of its brief, or is excluded from doing things that, from a public interest perspective, should be examined, then the inquiry is predestined to fail, or at least to make a lesser contribution than desirable.

The Productivity Commission has two procedural protections against 'silly questions'. One is the convention that terms of reference for a prospective inquiry are sent to it in draft form. This is principally intended to ensure that the task is comprehensible and feasible. But it can also elicit comments on scope and utility, and these have helped avert problems in the past. The second protection is the provision in the Commission's enabling legislation which permits it to consider any matters relevant to the task at hand, even if these are not specifically mentioned in its terms of reference. This has helped ensure that it can address issues that are important to a good outcome, but may have only emerged in the course of public consultations or research and thus had not been foreseen.

In some cases, a government may wish to exclude some part of the policy terrain subject to review. This is procedurally legitimate, and indeed understandable, but for it to avoid debilitating the inquiry, the issues need to be 'separable' and not integral to the main thrust of the review.

In the Commission's 1997 inquiry into private health insurance (Industry Commission 1997), the rest of the health system was ruled out of scope, as at the time the government was responding to more targeted community concerns (price rises for premiums). While this veto was obviously respected, the Commission felt it necessary to consider different possible reform directions for the health machine as a whole, to ensure that recommendations to improve this one 'cog' would be complementary.

The Henry Tax Review was presented with a much bigger obstacle in seeking to reform Australia's tax system without being able to recommend changes to the goods and services tax (GST) (Henry et al. 2010). This was not a 'separable' matter and, while the review came up with an alternative proposal for putting more weight on the consumption base, its report was handicapped and its value diminished. The issue, of course, has not gone away. Indeed, momentum has been building gradually over the past couple of years for the GST to be restored to the tax policy agenda. However, this will now require new policy foundations to be laid, and valuable time has been lost.

The recent review of industrial relations legislation (Fair Work Act) contained no explicit exclusions, but its terms of reference were framed to ensure a focus on legalistic aspects of the Act's implementation, rather than broader impacts on industry and the economy (McCallum et al. 2012). This was justified on the basis that it was merely a 'post–implementation review', triggered by the failure to undertake a regulation impact statement when the regulations were being formulated. However, as the Productivity Commission argued in reports that immediately preceded that review, a post–implementation review should be as wide in scope as the regulation impact statement for which it is effectively a substitute (PC 2011b).

The report was welcomed by unions and many of its recommendations were accepted by the Government. However, business groups expressed disappointment that it had not addressed their most substantive concerns, arguing that the inquiry should have been conducted by the Productivity Commission. A member of the review panel defended its report in the media by asserting that the Commission could have done no better given the same terms of reference. I have to say that I consider this unlikely, given the Commission's economy-wide analytical framework and its statutory ability to look at 'related matters'.

Getting the timing right

It is said of the art of comedy that 'timing is everything'. The same could be said about public inquiries (with the difference that provoking laughter is not normally a positive sign). There are several areas where timing can make the difference between success and failure.

The most basic is choosing the right time to *hold* an inquiry. Borrowing another catch phrase, 'the right thing at the wrong time is the *wrong* thing'. For example, if the political obstacles to desirable change in some policy areas vary inversely with business conditions, it will generally be better to tackle such areas when conditions are good than when they are bad. I could but appreciate the irony, for example, in the long-awaited national competition policy review of the anti-dumping system (which protects imports from 'unfairly low' prices) finally being sent to the Productivity Commission in 2010 when an appreciated dollar was placing extra competitive pressure on local manufacturers. The predictable outcome was the rejection of the Commission's key public interest recommendation and the recasting of the anti-dumping regime to make it more 'receptive' to an industry's complaints about imports (with the Opposition urging a harder line). Right topic, wrong time.

For similar reasons, it is not smart to time an inquiry on a sensitive matter such that it will issue its report close to an election. At that point, the report will inevitably become a political football, regardless of the merits of its recommendations. This no doubt was part of the story with the Henry Tax Review. Compounding factors in that case were that the Government had had the report for some six months before releasing it, and then chose to respond only to the politically most contentious recommendations in it, in isolation of other balancing recommendations.

There have been plenty of examples over the years of Productivity Commission reports being rejected, or responses to them distorted, because of a looming election, to the point where the Commission in later years found pretexts for delaying the completion of a number of its draft reports. Those on national competition policy (PC 2005) and consumer policy (PC 2008a) come to mind. Both reports were far better received and more influential for having been released just after an election rather than just before.

On the other hand, it can be politically smart to *initiate* an inquiry in the lead-up to an election. A government is thereby seen to be taking an issue seriously while ensuring that no action will be necessary until the next term (and possibly by the other side). At the Productivity Commission, the arrival of a pork inquiry (an industry spanning key electorates along the east coast) invariably heralded a looming election!

Another important consideration is *duration* – how much time is allowed for an inquiry. If consultation is to be more than token, and a draft report is released as part of this (see below), it is hard to complete a public inquiry in less than six months. There are of course plenty of examples of reviews meeting tighter deadlines, but they are not heavily represented among the success stories.

A short, sharp review can help a government get the answer it needs (depending on who undertakes it) in a politically convenient timeframe. But lack of consultation will rebound on the review's credibility and can make it look like a set-up job, in turn reducing its political value. It can also make it hard to get the right answer where complexity is a factor. These sorts of issues clouded the public's reaction to such reports as the Howard Government's review of carbon abatement policies (Prime Ministerial Task Group on Emissions Trading 2007) and the Gillard Government's review of population policy (Bourke 2011).

Selecting the right people (in the right settings)

The contribution of an inquiry often comes down to who does the job and what incentives or disciplines they face. Getting either of these wrong can predestine failure against at least one of the dual tests of 'influence' and 'outcome'. Controversy around appointments makes it hard for an inquiry to acquire the public credibility that is needed. Over the years, a number of major inquiries have got off to a bad start in this respect, including the Warburton and Hendy (2006) tax comparison, the West Review of higher education, the Bracks Review of automotive assistance, the Orgill (2011) Review of the 'Building the Education Revolution' funding and, most recently, the McCallum et al. (2012) Review of the Fair Work Act.

The qualities of the people involved in an inquiry and the governance arrangements under which they operate are interconnected, and some trade-offs between them may be possible, depending on the topic being reviewed.

The minimum requirement at the personal level could be expressed as 'competence without conflicts'. Desirable additional qualities are integrity, openness of mind and independence of spirit. Admittedly, these are demanding requirements, and people with all of them are not in abundant supply.

Governments will often be torn between their natural inclination to appoint a person they trust and the desirability of that person having wider credibility.

There will generally be scope to find such people if a government tries hard enough. Professor Karmel's appointment to the Schools Commission exemplifies this. And I could cite several others. 'Trying hard' in this area is important, as such appointments typically receive intense scrutiny from interested stakeholders. They will rightly see the qualities and connections of an appointee as having an important bearing on their chances of at least getting a good hearing, if not the outcome they want. A review that cannot withstand such scrutiny will struggle to get broad participation in its processes or for its recommendations to be accepted as being in the public interest.

Another positive feature of the Productivity Commission in this respect is that 'presiding commissioners' for particular inquiries are appointed by the Commission's Chairman, not by the government of the day. That said, governments determine over time the make-up of the Commission through appointments made formally by the Governor-General. Also, they can appoint associate commissioners to participate in particular inquiries, and there have been many such appointments made over the years. Most have brought considerable benefits through their experience or expertise. Only a few could be said to have failed the test of 'competence without conflicts'. This has mainly been an issue for industry assistance inquiries (notably for the troubled auto and textiles, clothing and footwear sectors). Even in this vexed policy area, a 'safe' appointee has sometimes 'gone native' and signed up to liberalising reforms.

This illustrates the complementary importance of governance arrangements and processes to getting the best out of those involved in an inquiry. Arguably, the more independent the institutional setting for an inquiry, and the more rigorous and transparent its procedures, the less reliance needs be placed on the qualities of the appointees heading it. I used to muse on the ability of the Productivity Commission and its predecessors to produce consistently good reports, despite the unavoidable variation in the abilities of those involved. Invariably, the explanation was in the quality of its processes and the dedication of its core support staff.

Many inquiries have been supported by departmental secretariats. This has pros and cons, depending on the topic and the department. Central agencies have generally performed much better than line agencies, reflecting their broader responsibilities. The Hilmer review of competition policy is a good example, contrasting say with the Hogan Review of pricing in residential aged care (Hogan 2004). The Regulation Taskforce was allocated a secretariat drawn from several departments, with representation also from the Productivity Commission. This proved challenging to manage but was ultimately very effective, as I have related elsewhere (Banks 2007).

A recent development is the appointment of departmental heads to lead policy reviews alongside external appointees. Examples include the Shergold, Harmer (2009) and Henry reviews. This approach benefits from the undoubted policy skills and experience of agency heads, but deprives a government of those benefits to be had from 'deniability' and policy-learning at one remove. And there will always be suspicion that the inquiry's findings and recommendations have been discussed with government ministers in advance. This is an understandable concern, and indeed this practice appears to be a common one even for arm's-length reviews.

Such considerations may have been behind Prime Minister Rudd's use of the term 'Commission' in his early references to the Tax Review. The fact that the review did not have independence commensurate with that terminology made it hard to persist with. The lack of separation from government also made it hard to issue preliminary recommendations for public scrutiny and debate. If it had, much of the subsequent political trouble – not least for the prime minister himself – might have been averted.

Ensuring 'transparency'

This leads to my fifth requirement for a successful inquiry or review – transparency – which is a key source of the value that an inquiry can add to public policy development.

Public servants, despite their title, are neither trained nor encouraged to be open with the public, at least *not* when it comes to policy matters. Their main connection to the public is through their minister. Ministers vary in attitude and inclination, but most do not want their departments out consulting on sensitive policy matters that may be under consideration – at least not publicly. For one thing, anything revealed or said by departmental officials may be interpreted as the minister's or government's own views.

An arm's-length review has value to government precisely because it is not seen as co-extensive with it. This enables findings to be tested and policy options floated before reaching a settled position and without implicating government itself. It thereby also provides an opportunity for political learning about likely reactions to different courses of action without incurring the pain of actually experiencing the worst of them. Moreover, as just noted, the public testing of preliminary ideas can serve to reveal unintended potential consequences while there is still the opportunity to avert them, and to do so on the front foot rather than the back one.

Transparency amounts to more than mere consultation. A lot of policy consultations and 'conversations' take place these days, but few transmit meaningful information. Transparency requires that relevant interests can be fully informed about the nature of policy problems and how particular proposals might be expected to address them. In other words, it requires that people understand what is going on in the minds of policymakers, so that they are in a position of being able to tell government whether that accords with their own experience 'on the ground' and how they are likely to be affected by particular measures.

When done openly and thoroughly, the informational and political value of public consultation can be great. The Productivity Commission's (1999) inquiry into the impacts of the National Competition Policy on 'the bush' is one that immediately comes to mind, debunking a number of misperceptions. Private consultations, on the other hand, can result in very bad policy decisions indeed, being vulnerable to capture by the organised (or the 'impassioned'), whose interests rarely coincide with those of the wider community.

To the extent that there is anything akin to 'revealed truth' in public policy, it depends more on iteration than revelation. In public inquiries the key conduits for this are the public availability of submissions and, to repeat, the exposure of *preliminary* findings and recommendations.

I cannot think of any inquiry by the Productivity Commission during my years there that did not benefit from feedback on a draft report. Indeed, in many cases, the Commission's final recommendations have differed significantly from those in its draft reports as a result of such feedback. The convention that no recommendations go to government without first having undergone a draft reporting process has, in my view, been crucial to the effectiveness of the Commission's contribution to public policy. (This experience led me to press the New Zealand Government, unsuccessfully, to entrench a requirement to this effect in the enabling statute for New Zealand's own Productivity Commission.)

Yet there have been many instances of other reviews in which submissions are released late or kept secret, or in which recommendations are not tested in advance. The lack of a draft report might have been the undoing of the Tax Review in relation to mining taxation, even if the Government had been more adept in how it chose to respond to it. The review of the Fair Work Act also suffered for want of a draft report, which reinforced suspicions that it was merely about endorsing the status quo and closing down debate.

'Handling' the report well

One of the sayings associated with Lord Maynard Keynes is 'many a slip 'twixt cup and lip'. This is very true of public inquiries. Even the best inquiry may come to nought if its report is mishandled by the commissioning government. Once again, a number of elements come into play. The key point, though, is that a public inquiry can only be an input to a policy decision-making process. Decisions will ultimately be made in a political realm, where the views and skills of leaders – including how they read the politics and their capacity to influence these – play a decisive role.

It may be that, akin to 'sticker shock', a government finds a report's key recommendations unpalatable, whether on ideological or political grounds (assuming it is 'technically' sound), and simply rejects them out of hand. That has happened to numerous reports, including by the Productivity Commission and its predecessors. Vintage examples are Prime Minister Howard's rejection of the Commission's draft recommendation to remove subsidies for Bass Strait shipping the night before its report was released, and the pre-emptive rejection of 'student centred funding' (vouchers) following the West Review of higher education policy. A more contemporary one is from the Commission's inquiry into 'default' superannuation provisions in industrial awards (PC 2012b), where the minister concerned publicly indicated a policy position in relation to the union fund's role that was contrary to the Commission's draft recommendation and issued before it finalised its report.

The rejection or setting aside of key recommendations need not negate an inquiry's longer-term value. Many inquiries have had their recommendations spurned initially only to see them revisited and implemented at a later date, following a change of government or when the political climate improved.

Taxation is a classic example. Recommendations of the Asprey Committee (Commonwealth Taxation Review Committee 1975), commissioned by the Fraser Government, languished for a decade before being revived under the Hawke Government, with a further decade passing before one of them (a consumption tax) was finally implemented. The report of the Henry Tax Review similarly contains many recommendations of enduring relevance, despite the short shrift they initially received. Tariff reform provides another illustration, with the Industries Assistance Commission's (1982) advocacy of top-down general reductions taking several years to be reflected in policy, again under the Hawke Government. And developments in higher education financing and regulation have seen many of the West Review's proposals gradually adopted over time. These and other cases demonstrate that it can take quite a while for novel policy ideas to be properly understood and to gain acceptance.

Where a government is broadly supportive of an inquiry's findings from the outset, a number of factors come into play that influence its ability to get them implemented.

One is how and when it chooses to *release* the report, relative to its own response. There is no rule book here; it is a matter for political judgement. There are two main options: one is to release a report ahead of a (full) response; the other is to release it *with* a response. Both options have been exercised often, but not always to good effect.

Early release of a report enables additional lobbying to occur. It will be directed politically and behind closed doors, with the attendant problems that a public inquiry is intended to avoid in the first place. This approach is therefore best reserved for reports where complexity and implementation detail warrant additional 'testing', or where for some reason there has been no opportunity to test adequately a report's findings in advance. Simultaneous release is most valuable where an issue is politically very contentious, where due process has been upheld and (of course) where the government is confident that the recommended course of action is in the best interests of the public.

In my view, minority government tips the balance in favour of the simultaneous release of inquiry reports with a government response. Otherwise, lobbyists have the additional avenue of targeting those individual parliamentarians who find themselves fortuitously in a position of great influence, but who may lack the knowledge or incentive to distinguish the national interest from their own electoral or personal interests. The unsatisfactory outcomes for gambling regulation and carbon policy, for example, were in large part due to the leverage that pressure groups were able to apply through one or two 'independents'.

The worst strategy of all is to keep a report under wraps for too long, or not to respond to it at all. This can only serve to diminish the standing and the value of a public review, including ultimately in political terms. The first tactic has recently been adopted by some state governments for their commissions of audit. An ironic instance of the second is the Federal Government's failure to release its response to a report it commissioned in 2009 from the Australian Law Reform Commission – into the efficiency and effectiveness of public inquiries!

Another good feature of the Productivity Commission Act, therefore, is a requirement that all inquiry reports be tabled in Parliament within 25 'sitting days'. (In New Zealand there is a statutory requirement that the government release the reports of its Productivity Commission 'as soon as practicable'.)

Irrespective of the timing of a report's release, better or worse outcomes can be achieved depending on how skilfully any negotiations are conducted. Again, this is not just about clinching a deal (any deal) for the sake of early agreement and a triumphant press conference. Perhaps the best illustration of this is the Minerals Resource Rent Tax, which emerged from quick and exclusive negotiations and whose outcome might best be characterised as throwing the revenue baby out with the Resource Super Profits Tax bathwater. The Coalition Government's deal with the Democrats a decade before to get the GST over the line is another, less extreme, example. To succeed in introducing a consumption-based tax, even an imperfect one, was better than failing for a third time, but the exemptions and design inflexibility that formed the *quid pro quo* have left an increasingly costly legacy.

Political negotiation can be rendered more tractable where an inquiry has helped educate the public about what is at stake. The negotiations on the National Disability Insurance Scheme and in particular the support of the Opposition – an uncommon thing – were assisted by the broadening of the public's own support for it following the Productivity Commission's inquiry. The Aged Care Package, though only a single step forward when a few were called for, was at least not a step *backwards*. The same could not be said of gambling 'reform', where sound evidence, broad community support and evident political will failed ultimately to prevail over vested interests.

The gambling story illustrates the risks that political deals, even with 'allies', can get to a point where they weaken the integrity of the policy package itself. Removing a measure that is complementary to others, or changing the sequencing of a program's rollout from what had deliberately been devised, may end up strengthening the hand of those opposing reform. In the gambling case, the perceived 'need for speed' to satisfy a key independent – contrary to the more cautious, incremental approach advised by the Productivity Commission – was ultimately the undoing of real reform.

Although I did not want to get into policy implementation in any detail here, if this is not well addressed it can bring even a sound and 'agreed' policy initiative unstuck. The history of the Council of Australian Governments is replete with examples of good deals in principle degenerating into poor outcomes in practice – just think water, transport or, indeed, infrastructure generally.

All policy initiatives are essentially *experimental* in the sense that, even with the best evidence and preparation, their future impacts can never be known with certainty. Monitoring these impacts and, where appropriate, taking corrective action, is therefore fundamental to successful outcomes over time. That is why, in Commission reports, a final recommendation is often to review how responses to its other recommendations turned out in practice. This is particularly important where these are novel, or where there are many complex influences at work. (An example is the Commission's recommendation to review the 'Two Strikes Rule' for shareholder approval of executive remuneration, after it had been in operation for a few years – a cautious approach that seems to have been vindicated.) However, 'ex post evaluations' are not conducted very often, and rarely as an integral part of the policy regime itself.

In conclusion

A long-term observer of the Australian scene might easily conclude that the quality of public policy in this country is inversely related to its *quantity* – moreover, that this holds most strongly in times of ‘plenty’.

The accumulated deadweight cost of poor policy can be substantial. But, as Adam Smith reportedly replied to a young Hanrahan of his time, ‘be assured: there is a great deal of ruin in a nation’. Up to a point that is of course true – and just as well. Smith himself, however, campaigned consistently and eloquently against policies (such as protection) that he saw as potentially the *most* ruinous. For there are areas of policy where bad decisions can indeed inflict a heavy price. Unfortunately, these also tend to be policy areas that have a greater predisposition to bad decision-making than good – areas where complexity and ignorance can often be exploited for private gain at public cost.

When they are well-targeted and properly conducted, public inquiries provide a useful mechanism for penetrating complexity and countering asymmetric political pressures on government. As will have become apparent, I consider that there is more cause for employing such arrangements today than ever before. Loss of policy-analytic capability within the public service, compounded by erosion of procedural protections, have in some areas made policy ‘co-production’ with special commissions and taskforces more of a necessity than a luxury.

Experience tells us that governments do not always resort to public inquiries with noble intent. Yet when they do, there are pitfalls to avoid if their goal is to be realised. For one thing, it is crucial that the right topics be addressed in the right timeframes (and not too many at a time); and for another, that the reviews are conducted by the right people, acting under the right governance arrangements. Even when all these boxes have been ticked, a successful outcome is still not assured. How the commissioning government chooses to handle the inquiry’s report (and how skilfully) will often be the deciding factor.

All that being said, policy experience in ‘sensitive’ areas, epitomised most recently by the 457 visa episode (for skilled migration), has led me to the view that even a poorly structured public inquiry may sometimes be better than the alternative.

Return of the Rent-Seeking Society?

The Stan Kelly Lecture,
The Economic Society of Australia,
Melbourne, 15 August 2013

Return of the Rent-Seeking Society?

> *The political effects of this system favour neither the rich nor the poor, but the established and the organised. … Without transparency, it becomes impossible to monitor … and the system breeds cynicism in those it favours as much as in those it discriminates against (Tumlir 1984).*

> *There is no such thing in this life as a free feed – someone always pays (Kelly 1978).*

Stan Kelly achieved a great deal in his life. Arguably his greatest achievement, though not his alone, was his son Bert, who endowed this lecture in his memory. This struck me forcibly when re-reading the author's dedication to his compilation of 'modest member' essays, *Economics Made Easy* (Kelly 1982):

> *This book is dedicated to the memory of my father, W.S. Kelly, O.B.E., who pushed me sternly along the road of economic rectitude.*

I believe that this passage tells us something about the qualities of both father and son, as well as of their relationship. Above all it evokes a sense of *duty*: of doing not only what is good, but what is *right*. For as we are reminded in Hal Colebatch's recent biography of Bert Kelly, and in the moving eulogy by Ray Evans that it contains, there was a strong moral dimension to the Kellys' opposition to 'The Tariff', in addition to their concern about the economic damage it wrought (Colebatch 2012). The passage further suggests that the Kellys saw this as a *quest*, a journey, not a single course of action, or even a destination where one could finally afford to rest.

At the same time, in Bert's choice of the words 'sternly' and 'rectitude', there is a hint of not taking oneself too seriously – and of the humourist. My guess is that he exhibited this quality in greater measure than his father, and no doubt it helped explain his success.

Bert Kelly was undoubtedly also a *patient* man, as anyone advocating (real) reform clearly needs to be. And I am in no doubt that in this respect too he resembled Stan Kelly, who with his remarkable friend, the politician Charles Hawker, set young Bert on a course that they must have known would prove both arduous and long. Whether they believed he would ultimately prevail is not recorded, but knowing him as they did, we can assume that this was so.

Bert's times

When Bert was doing battle against The Tariff in the 1960s, he, like his father before him, was the odd man out. This was true even within farming circles, let alone in Parliament or public administration. While perhaps no longer the 'detested sect' of Stan's heyday in the 1930s, as depicted in Keith Hancock's *Australia* (Hancock 1930), public advocates of free (even of freer) trade, faced much hostility and derision. As a result, they were few and far between. Bert recounts in another book *One More Nail*: 'I used to be able to empty the House quicker than any other Member,' adding slyly, 'and believe me, the competition was not negligible'(Kelly 1978).

One of the ironies of that era's prevailing orthodoxy of 'protection all round' – apart from it being predicated on a logical impossibility – was that some of its biggest costs were borne by its strongest supporters. These included not only 'Black Jack' McEwan's followers in the bush, but also those manufacturing interests in the city most dependent on imported inputs.

But this was not widely understood or accepted at the time, despite the eloquence of Adam Smith two centuries before, or the contemporary wisdom of the Vernon Report (where a young academic called Max Corden cut his policy teeth). The taxation of imports was still seen, above all, as favouring Australian workers, with its burdens falling predominately on the export trade of foreigners, not the exports and incomes of Australians.

At that time, it was not a shameful thing for a conga line of industrialists to be seen wending its way to Canberra. Nor did manufacturing interests feel the slightest embarrassment in seeking ever higher rates of tariff protection before the Tariff Board, whose conception of 'economic' assistance, helpfully for those seeking protection, was 'just enough to compete and no more.'

Thus by the late 1960s, the average nominal tariff for the manufacturing sector had reached 22 per cent. For some industries, tariffs were double that, with effective rates of assistance (that new measure associated with Prof. Corden) topping 100 per cent.

Of course, it did not stop there. If farmers protested that they were doing it tough, as many no doubt were (in part because of production costs being elevated by tariffs), then they too could expect government to ease the pressure – through tariffs if those were needed, or through marketing boards and other schemes to prop up domestic prices above competitive levels, as well as through drought assistance and other subsidies, and an unduly strict quarantine regime.

Within the largely domestic services sector, not to be outdone for anti-competitive preferment, public utilities and other government infrastructure services with statutory monopoly protections dominated the economic landscape, their high-cost price structures tilted to get a share of the rent from the protection of manufactures. Many other goods and services could only be sold in their state of origin – including milk and beer (I still recall my first venture into alien Reschs territory) and the services of licenced professions and trades.

In workplaces across the country, trade unions ruled the roost in a highly and centrally regulated labour market, where schedules of wages were 'awarded' and conditions prescribed for every conceivable job at every conceivable level of skill or experience, regardless of the circumstances of individual enterprises subject to them. If what the industrial judges regarded as a fair thing, having heard both sides within the 'Club', turned out to be potentially ruinous for some firms, a trip to Canberra by the relevant industry association would soon fix that, through another round of 'made to measure' protection.

Indeed, a special trip in many cases was unnecessary, as most industries had representatives permanently ensconced in our nation's capital – all the better to become acquainted with those good people within government who in effect made the decisions. Larger companies requiring more tailored support, like ICI or BHP, had their own Canberra operations – which at the time may well have been among their most important profit centres.

In short, the Australia of Bert Kelly's time could be described as rent-seeker heaven. While the expression 'rent-seeking' had not been invented at the time Bert began his lonely fight in parliament, it would have resonated strongly with him from the outset. It was first coined by Anne Krueger in her 1974 article 'The Political Economy of the Rent-seeking Society' to describe the competitive pursuit of import licencing privileges. It has come to be characterised more loosely as the pursuit of 'government preferment' – actions of particular groups directed at obtaining benefits through the State that involve restrictions on markets, to the (net) cost of the community as a whole.

The concept itself had long been recognised. What Krueger (and Gordon Tullock) formally demonstrated, however, was that the costs entailed in rent seeking could be considerably larger than the deadweight losses in the static Harberger 'triangles' of conventional partial equilibrium analysis, potentially encompassing as well the transfer 'rectangles'. The key insight is that resources devoted by a firm (or organisation) to obtaining benefits from the State (or defending those it already has) will be expended up to the point where the expected return is no greater than that obtainable from productive activity, potentially dissipating the entire rent.

It follows that the costs of a 'rent-seeking *society*' – one in which many groups are simultaneously attempting to secure such artificial advantage – can be very large indeed. Yet this was precisely the kind of Australia that existed in Bert Kelly's time, and against which he laboured so valiantly.

The difficulty Bert faced in convincing people about the costs of protection resulted in part from the fact that, at that time, Australia was doing tolerably well economically, aided by favourable world prices for our primary commodities (notably wool and wheat). Growth was steady, unemployment and inflation low, and the incomes of Australians still compared favourably on average with those in other advanced economies. But to the extent that we had been able to continue 'riding on the sheep's back', as the cliché went, we were riding for a fall.

The leading indicator of our demise was chronically low productivity growth relative to the OECD, the inevitable consequence of a system that rewarded lobbying, entrenched restrictive practices and compensated firms for excess costs.

Productivity growth in aggregate comes from two principal sources: (a) cost-reducing and value-enhancing changes within *firms* ('innovation'); and (b) the displacement of poor-performing firms or industries within *sectors* ('creative destruction'). Both market mechanisms were severely compromised under the 'protection all round' regime.

As a result, Australia's economy became increasingly fragmented, small scale and high cost, with outmoded technologies and low rates of skill development. It was an economy overweighted in (high cost) manufacturing and underweighted in primary and tertiary (and efficient secondary) sector activities.

As our terms of trade diminished, the poor underlying productivity performance translated into what looked like becoming an inexorable decline in the comparative living standards of Australians. Whereas Australia was ranked fourth in the world in terms of per capita incomes in 1950, we had fallen to eighth by 1973 and 14th by the mid-1980s. This trajectory, if maintained, would have seen us languishing, as Treasurer Keating colourfully highlighted, with the resource rich but poorly performing economies of Latin America.

The Kelly message heeded

Obviously this was not to be our fate. Almost against the odds, Australia reversed its immiserising spiral of rent-seeking to emerge as a productivity leader by the late 1990s – indeed within Bert Kelly's own lifetime. But this took considerable effort and skilful political leadership, and it didn't happen overnight.

Two early blows

The initial blows against the preferment system were, ironically, not dealt by Bert's own Liberal Country Party Coalition but by 'the other side'. And the first of these actually *did* happen overnight. Australians awoke on the morning of 19 July 1973 to learn that the Whitlam Government had slashed tariffs by 25 per cent 'across the board'. This policy initiative, devised in secret, was designed to kill two birds with one stone – to deflate an overheated economy and achieve a more efficient allocation of resources – within the constraints of a fixed exchange rate regime.

The former goal may have been over achieved, given the turn in global economic conditions. But in relation to the latter, the tariff cut's contribution was in the end arguably more symbolic than substantive. Though extensive in reach and an important and unexpected shot across the rent seekers' bows, the more powerful industry lobbies soon rallied. Within a short space of time, the government had capitulated and re-introduced quotas for textiles, clothing and footwear (TCF) and auto imports, with further reversals for some steel products and whitegoods.

These served to exacerbate (net) assistance disparities, with some TCF activities enjoying effective rates above 200 per cent. Structural distortions accordingly increased, notwithstanding the lower average rate of protection.

The more profound and enduring action against producer rent-seeking was Whitlam's transformation of the Tariff Board into the Industries Assistance Commission (IAC), based on a report by Sir John Crawford (1973). The key formal changes it brought to an institution that already benefitted from formal independence and procedural transparency, were explicit public interest provisions in its new statute: requiring it to assess what was in the best interests of the economy as a whole, not just industries under competitive pressure. Whitlam expressed the rationale for his new Commission in the Second Reading Speech as follows:

> *The first and most important reason for establishing the Commission is to allow public scrutiny of the process whereby governments decide how much assistance to give to different industries … Such a process must be independent and impartial and seen to be independent and impartial.*

Far from receiving the support of Bert Kelly's side of politics, this principled initiative was vehemently opposed by the Country Party. Hal Colebatch (2012) in his book The Modest Member quotes the following passage from Doug Anthony's speech in parliament:

> *What this legislation means, of course, is the end of the long-established and successful practice under which industry policy has been devised, the system of discussions, consultation and negotiation between industry and government. … What will be the point of industry talking to the Government?*

A change to long-established practice was of course precisely what was intended. Colebatch notes Kelly's observation that this 'meant greater transparency and a reduction of the deals which had led manufacturing interests to so generously build John McEwan House for the Country Party in Canberra.'

The IAC became a strong ally for Bert, furnishing him with facts, figures and analytical insights. In shining light on the economy-wide costs of protection, it also alerted those sections of the community who were in effect paying the bill, and in time they (initially the National Farmers Federation, then the Australian Mining Industry Council) added their voices to his call for reduced protection.

The next substantive blows against protection were not to be made for another decade, after the intervening reign of Malcolm Fraser – an avowed free trader on the world stage but regrettably a protectionist at home.

Advent of the 'Reform Era'

The Hawke–Keating Government did not at the outset look any more promising from a reform perspective than that of Fraser. Hawke, after all, had only just stepped down as head of the ACTU. As such, he had been a skilful advocate for protection and member of the Industrial Relations Club. Keating had little training or experience relevant to his new responsibilities as treasurer. The Labor Party's platform was similarly unpromising, containing no hint of the reforms to come.

How the metamorphosis occurred, and the strategies adopted to transform Australia's economy, is a story that needs to be more widely understood, for reasons that I will come to.

The upshot was that, by the time of Bert Kelly's death in 1996, the principal monuments to Australia's rent-seeking past had been seriously weakened, if not struck down. Tariffs were finally heading towards zero, with even those for the two 'high maintenance' industries – TCF and Autos – being significantly reduced; most public utilities and other service monopolies had been corporatised or privatised and exposed to competition; anti-dumping arrangements were made less 'accommodating'; industry subsidies were being redirected to promote adjustment or address market failures; anti-competitive regulations were being systematically scrutinised and enterprise bargaining was transforming workplaces across the country.

Were Bert with us today, he would no doubt be pleased that reform did not cease under the successor Liberal/National Government of Howard and Costello. The National Competition Policy rolled on – dismantling many anti-competitive institutions, including the agricultural marketing boards – fiscal repair was vigorously and successfully pursued, and further reforms were made to industrial relations regulations to enhance necessary workplace flexibility and innovation.

Most of all, I think, he would have rejoiced at the economic benefits that flowed from this extensive program of micro-economic reform, the prospect of which had been vigorously disputed by those resisting reform. In particular, he would have felt vindicated by the rising employment, falling unemployment and historic gains in labour force participation during this period, and the fact that real wages rose by one-third. And he would have been heartened by the fact that, contrary to conventional wisdom, an open, flexible economy proved much more resilient in the face of external shocks.

I also suspect that he would have had little sympathy for the manufacturing lobbies lamenting that their share of output and employment had fallen, seeing this as part and parcel of realising the much larger, economy-wide gains in jobs and incomes.

But if I can continue to second-guess our sage in this vein, there are some features of Australia's contemporary policy scene that he is likely to have found less to his liking, perhaps even concluding that our past ways were not so far behind us after all.

Rent-seeking redux?

The reality of course, is that while tariffs are now historically low, they have not been eradicated. A report by the Productivity Commission in 2000 (PC 2000b) recommending the complete phase-out of 'general tariffs' was rejected out of hand by the Howard–Costello Government, ostensibly for fiscal reasons (notwithstanding the emerging fillip to revenue from mining).

As long as the tariff regime remains intact, it not only continues to impose costs on society, costs which are often underestimated, it signals the legitimacy of protection and the pursuit of it. Thus, we have seen intermittent calls for increased protection in recent years and a populist new political party, again based in the bush, advocating higher tariffs to offset the competitive pressure from a stronger exchange rate. We have also seen protectionist regression in Australia's anti-dumping regime. At the same time, the ability of firms to get relief from paying import duties, where these apply to machinery or raw material inputs that cannot be sourced locally, has recently been constrained.

Meanwhile, the principal delivery platforms for government preferment have shifted from border protection to other forms of assistance. Grants and other budgetary assistance tracked by the Productivity Commission amounted to $9.4 billion in 2011–12, up from $6.8 billion five years before. This compares with (net) tariff assistance equivalent to $1 billion (PC 2012c).

The increase in budgetary assistance was aided initially by the mining taxation bonanza. As Kelly would have appreciated more than most, such transparent assistance from the taxpayer has necessitated public interest rationales removed from crude protectionism. These have been furnished by the economics profession – or perhaps more accurately public officials who have learnt their economics 'on the job' – under the headings of 'market failure' in general and 'externalities' in particular.

'Innovation is good'

Innovation has become the sacred cow of industry policy, as though it should be sufficient to invoke it in order to justify any form or amount of government support. Thus, nearly all assistance packages being devised by governments these days have 'innovation' in the title, whether or not they are likely to increase it, let alone do so in such a way as to yield a net benefit to the economy.

This is illustrated by the 'Industry and Innovation Statement' released in February. The statement comprises a package of measures explicitly directed at supporting jobs in manufacturing. However, the declared centre piece of the Statement is not directed at innovation as such but at import substitution – through measures encouraging mining firms to 'buy local' and facilitating manufacturing firms' access to anti-dumping remedies for 'injurious' imports.

Those elements that are concerned with innovation revive two ideas that someone from the 1980s would have already been familiar with: 'Innovation Precincts' (reminiscent of 'clusters' and the Multi-function Polis) and subsidies for early stage venture capital (long utilised but short on impact).

A sense that not much had really changed would have been reinforced by the announced appointment of a new 'Automotive Supplier Advocate' in order to 'boost sales of Australian-made cars to government and business fleets.'

The automotive sector receives, through tariffs and various subsidies quantified by the Productivity Commission, over a billion dollars in assistance from the community annually. But with more than one-half of all cars sold going to fleets, substantial additional assistance is likely to be derived from government purchasing preferences and fringe benefit tax concessions. The Australian Government has indicated that in 2011–12 around 70 per cent of its car purchases, and those of the two car manufacturing states, Victoria and South Australia, were made locally and it recently signalled an intention to buy even more. This compares to an overall market share for local production of around 10 per cent. That fringe benefit tax concessions have played their own part is apparent from the outcry following the recent tightening of these and the subsequent offer by government of an extra $200 million in assistance, partly to compensate.

A champion among rent-seekers?

I'd suggest that Kelly would not have been too surprised that the automotive industry was the only industry to have been singled out for special treatment in the Statement. Along with the Pharmacy Guild, it has to be given its due as the most successful rent-seeker in Australia's industrial history. (And, as Bert might have repeated in this context, 'the competition has not been negligible'.)

The Australian auto industry has arguably managed the rent-seeking side of its business better than the production side. It has been able to argue successfully for much higher rates of assistance than for most other industries over many years. And when the tariff game was finally up, it was able to negotiate substantial new financial assistance for purposes of 'adjustment' and innovation. Arguably, the main adjustment that took place, however, was a shift in the sales mix in favour of (rebadged) foreign vehicles. As Bert's fictional friend Fred might have said 'you've gotta hand it to 'em!'

Two developments, however, might have led the 'modest member' to sharpen his pen again. One was the bypassing of the Productivity Commission, descendant of Bert's beloved Industries Assistance Commission, for the most recent major review of assistance to the industry (though the Commission's modelling study as an adjunct to that review made an important contribution in its own right). The other is the lack of transparency around recent top-ups in assistance provided to specific firms – some of which were brought to light only as a result of a refused freedom of information request. Seeking to dignify surreptitious subsidies to selected firms as 'co-investment' by taxpayers would have to be regarded as a bit of a stretch, to say the least, particularly given that any real dividends they managed to produce would have gone offshore.

Having been tutored by Eccles, Bert Kelly would have relished in countering the industry's claims that it is actually under-assisted by international standards, or that the taxpayer gets a twenty-fold return for each dollar 'co-invested'. He might point to the Productivity Commission's estimate of a few years ago that every job 'saved' in the auto industry by assistance through the government costs Australian taxpayers around $300,000 (PC 2008b). At the same time, the mining industry was deprived of skills they desperately needed, obliging firms to recruit overseas on a temporary basis using the 457 visa route. Thus, when Mitsubishi finally closed its operations in South Australia, the majority of the workforce soon found alternative employment.

What is rarely acknowledged is that most of those employed in the automotive sector do not depend for their jobs on local assembly operations. And many of the jobs claimed to be in the balance when additional taxpayer money is sought, are related to the distribution and servicing of cars that are largely imported. In any case, long experience tells us that assistance to this industry, as for others, can do little to support job numbers. Rather, it is likely to have mainly underpinned higher remuneration for remaining auto employees and higher profits (or smaller losses) for the owners in the United States and Japan.

Coalitions of interest

As in the past, unions have continued to join forces with automotive and other interests in areas where both stand to gain from government preferment. Recent illustrations of this outside the automotive sector are to be found in coastal shipping, road transport and defence procurement. In each case, a public interest rationale has cloaked the private interests being pursued.

For example, the new Road Safety Remuneration Tribunal's powers to fix haulage rates can be expected to favour large incumbent freight companies and their unionised workforces against the contractors and owner-drivers who compete with them.

And the commissioning of another batch of home-made submarines to replace the costly and unreliable Collins Class, following petitions by the Defence SA Advisory Board – 'a lobbying machine without compare' according to one public commentator – will be a boon to the Adelaide-based industry and unionised workforce alike. The former army general astutely chosen to head this lobby, has spoken of the need to 'fire up the national imagination' through such an action. (No doubt our modest columnist would have had much fun discussing this with Fred or Eccles. One of them might have suggested that the need for our Aussie subs to take so long to build and for them to then spend so much time in dry dock may actually be regarded not as a problem but a job-creating virtue.)

The environmental angle

Rent-seeking under the innovation banner has proven effective enough. But when the prospect of innovation externalities is combined with the reduction of *environmental* externalities, the mixture is a potent one indeed.

The largest beneficiary of this superficially compelling juxtaposition of public interest rationales is the Carbon Abatement Industry. On the last count, there were over 200 different programs to support this 'industry' Australia wide (PC 2013). At the Commonwealth level alone, budgetary expenditure on such programs amounted to around $1.7 billion in 2011–12. Support has been provided both through regulations and subsidies that favour the production or consumption of alternative energies, and by simply taxing carbon emissions. All told, the transfers now dominate most other categories of industry assistance.

As for innovation support, the policy 'cover' is the potential for net social gain through changing the level of externalities associated with industry activity. But this potential is hard to realise, even with carefully designed schemes, let alone the ones introduced.

For example, I wonder what Bert Kelly would have made of the giant, futuristic wind turbines that increasingly populate the rural landscape? 'Are these financially viable?' he might have asked. The answer is that they would clearly *not* be without the benefit of a regulatory regime that obliges energy distributors to obtain 20 per cent of their power from 'renewable' sources.

Bert might then see whether the Productivity Commission had had anything to say about this. He would find that the Commission had found the Renewable Energy Target to be a relatively high cost means of achieving emissions abatement (though not so costly per tonne as the subsidised solar panels that now adorn many suburban roof tops).

He would further discover that the Commission had recommended that measures, such as the Renewable Energy Target, that could not be shown to yield benefits additional to those to be derived from pricing carbon emissions should be abolished. Instead, ‘Big Wind’ has been favoured by additional support through the Clean Energy Finance Corporation, which has a government-guaranteed $10 billion budget and little else, other than solar, that it can really spend it on.

Workplace regulation resurgent

How Bert Kelly would have viewed the industrial relations scene today is less clear, given the state it was in for much of his life. However, he may well have been disappointed that the trajectory under the Keating Government’s reforms – towards the negotiation of wages and conditions at the enterprise level, subject to a limited number of regulatory standards – appeared to have lost momentum. Being told that conventional opinion was that deregulation had gone too far under a legislative package called ‘WorkChoices’, he may have struggled to understand how that was so, or why the regulatory pendulum appeared to have swung so far back, in some areas to pre-Keating days. He might express particular surprise at the extent to which the unions had enhanced their influence and powers, despite having a fraction of the membership of his day, perhaps noting that industrial disputes and associated working days lost seemed to be trending up again.

Some of the features that might be found most anachronistic are the legislative freedoms for unions to install their officers in workplaces for recruiting purposes (‘On the Waterfront’ anyone?); the entrenching of penalty rates for weekend work in what has become a 24/7 economy and society; the right to ‘strike first, talk later’ (and on issues extraneous to wages and conditions); and limitations on an enterprise’s ability to employ external contractors or to engage in greenfield investments without union approval.

While the industrial court has had a name change, would it appear all that different from the old Conciliation and Arbitration Commission? Equally, while the award system has been ‘modernised’, would it be seen as fundamentally new? ‘Modern awards’ are fewer in number, but there is still a lot of them, containing a lot of prescriptive provisions. Further, myriad prescribed minimum wage rates still exist for different tasks at different levels, when most advanced countries consider a single minimum rate sufficient for safety-net purposes. (The fact that ours is the highest in the OECD and is likely to be a disincentive to employing many people, including new migrants, is another matter.)

The heavy regulatory emphasis on union representation in workplaces might also look out of kilter with the changing nature of work and working relationships in the post-industrial age, reflected in declining union membership itself. Few employers these days would regard their employees as mere factory fodder, if they ever did. And few employees these days would see unions as more deserving of allegiance than their employers (at least outside the construction and stevedoring industries).

Nowadays, people have more generally applicable human capital and more employment choices, and thus greater individual bargaining power. Moreover, low-skill, low-income workers and their households are far less dependent on earned income than previously. Apart from the ‘NewStart’ unemployment safety net, there is an array of payments and concessions on offer, depending on one's personal and family circumstances. Indeed, based on Australian Bureau of Statistics data, 60 per cent of households in Australia today receive more in direct social benefits from government than they pay in taxes (Carling 2012).

These payments have their own large constituencies, who naturally seek to entrench and extend what they have come to regard as entitlements. While this might appear to someone from an earlier era as simply another form of rent-seeking, changing social mores and notions of fairness complicate the picture. However, regardless of the merits of the various categories of social transfer, there comes a point, as with the conventional concept of rent-seeking, where transfer-related activities begin to reduce economic welfare for society as a whole. In the case of this form of government assistance, the costs derive mainly from consequent reductions in labour force participation and from the (large) deadweight losses associated with tax 'churn'.

Back to the Future?

On occasion, Paul Keating was heard to repeat the aphorism of his early mentor, Jack Lang that, 'In the race of life, you can always back self-interest – at least you know it's trying'. An appreciation of the constancy and power of self-interest is a good thing, particularly in a treasurer. Properly harnessed and directed, self-interest underpins economic progress, as every student of Adam Smith knows. When stifled or misdirected, however, it can undermine economic performance and indeed society itself.

Rent-seeking is self-interest misdirected. It weakens economic performance by diverting entrepreneurial energy from productive ends, as well as by attaching itself to policy instruments that distort the allocation of resources. Rent-seeking's preoccupation with wealth distribution over wealth creation ultimately erodes an economy's capacity for both.

Rent-seeking is also *socially* detrimental. A rent-seeking society is one that favours 'insiders', the organised and the politically powerful, at the cost of the rest of the community. This often occurs in opaque, if not surreptitious, ways. Moreover, it is a system, as the Kellys felt so keenly in relation to The Tariff, that dispenses preferment unrelated to merit, and is fundamentally at odds with the 'fair go'. It accordingly breeds suspicion and erodes trust in government, including in its ability to make policies that are generally beneficial and therefore sustainable. In this way it heightens risk and uncertainty, and can erode the accumulation of both social and economic capital.

A further consequence of the prevalence of rent-seeking is that it weakens the capacity of society, through income growth and accompanying tax revenue, to fund programs for the disadvantaged, including those harmed by the preferment of others.

For all these reasons, manifestations of a return to the 'bad old days' should be viewed with great concern. With the highs of the mining boom now behind us, the imperative, as at the end of the wool boom, is for governments to pay more attention to the creation of wealth than its further redistribution, and to facilitate productivity rather than preferment. That will mean undertaking reforms in a number of policy areas. But above all, it will mean having a hard look at those aspects of the policymaking environment that have contributed to our relapse – and urgently addressing them.

The drivers of rent-seeking

As noted, the extent and pattern of rent-seeking are influenced by the expectations of different players about the returns from such activity relative to feasible alternatives. An organisation or industry is more likely to petition a governments for special favours: the less well it is doing on its own; the higher the perceived probability of it being successful in obtaining assistance, and the larger the potential benefits at stake.

A number of factors influence what might be called the demand and supply sides of this particular 'market'. Some of these may be temporary, or self-correcting, but others are potentially more durable.

The mining boom will have influenced both sides of the preferment market in more recent years, by putting some industries under increased pressure and providing government with additional revenue to potentially address their needs ('spread the benefits'). Ironically this made the opportunity cost of assistance seem lower, when from a resource allocation perspective it was higher.

Typically, organisations that are already doing well do not go to the trouble of petitioning government for support. As the saying goes 'governments don't pick winners, losers pick governments'. The high dollar significantly reduced the competitiveness of firms in some trade-exposed sectors, particularly segments of manufacturing and tourism, and these were soon seen to be ramping up their lobbying efforts.

Some of the pressure on those sectors, and thus on government, should have abated with the dollar dropping back again in recent months. But markets are tough places. They contain multiple sources of pressure. Some firms, if not industries, will always be struggling and the incentive for them to seek support will generally remain.

How different parties think government is likely to respond to any overtures they make will obviously be the key to how they choose to proceed: in other words, the nature of the 'supply side' will largely determine the extent of *actual*, as opposed to latent, demand for assistance. A government that, to use an old expression, appears to be 'open for business', will soon find itself getting plenty.

In this respect, the Global Financial Crisis has had, in my view, a significant effect of its own on recent rent-seeking trends. Not only did it exacerbate the pressures on firms and other organisations, including many outside the trade-exposed sectors, it radically heightened the inclination of governments to spend rather than save. Suddenly politics and economics were in harmony – spending was generally seen to be good, almost regardless of its productive potential (and much of it was not very productive).

This in turn had an impact on community perceptions, with the initial shock many Australians may have felt on receiving a cheque from the government soon passing and a previously suppressed belief in the 'free lunch' reasserting itself. Indeed, these days people seem to have become inured to multi-billion dollar policy announcements. (Everett Dirkson's old line 'a billion dollars here and a billion there and pretty soon you're talking real money' hardly even raises a smile anymore.)

Another casualty of the Crisis can be found in the processes for policy formulation itself. In a crisis, some of the normal procedural requirements within government – such as public consultation, cost-benefit analysis, regulation impact statements, Cabinet discussion and whole-of-government processes to inform it, and adequate time for parliamentary debate of Bills – come under considerable pressure. Some short cuts are inevitable in such circumstances and perhaps even desirable. However, where they persist, they facilitate the rent-seekers' task and increase their expectations of success, by reducing the scope for scrutiny of their claims and any measures designed to address them. That a legacy has persisted in this area is illustrated by the range of programs and policy initiatives in recent years that have occurred with little consultation or warning, a number of which, inevitably, have given rise to unintended consequences.

Loss of due process is particularly problematic in areas where the interests of rent-seekers align with the ideology or inclinations of the government of the day. In Bert's times, the difficulty of countering manufacturing industry's claims for preferment was made harder by it having political champions at the top of the Liberal and (ironically) Country Party Government. On the other side, unions have obviously long had close ties to the Labor Party they founded. As the former prime minister, Julia Gillard, observed at the AWU's convention this year, 'I come to this union's gathering as a Labor leader. … I'm the leader of the party called the Labor Party deliberately because that is what we come from. That is what we believe in…'.

The expressed views of politicians can play a key role in conditioning expectations about the potential gains from rent-seeking activity. From this angle, manufacturing interests would have found comfort on both sides of politics in recent times. A prime minister who publicly declares that he does not want be the leader of a nation that 'does not make things' emits a signal that manufacturing interests would fully comprehend. An opposition leader who declares that his party 'says "no" to the carbon tax because we say "yes" to manufacturing' conveys a similar message, one likely to be reinforced by the promise of stricter anti-dumping rules.

Of course actions speak louder than words (what economists call 'revealed preference'). Those interests considering whether to seek preferment from government will be most influenced by whether it has been offered previously to them or to others. And, as indicated earlier, many will find much to encourage them. Thus it is understandable that carbon tax compensation quickly established itself as a favoured route for industry assistance extending beyond those with the more solid claims, as the Grattan Institute warned. It is also unsurprising that we are seeing advocacy of 'reserve pricing' for domestic gas production to artificially lower input costs for (other) local industry. And, as budgets bite, we are starting to see greater competition for available financial assistance – with the food industries recently protesting at the priority given to automobiles – and greater emphasis on regulated or administered forms of assistance, particularly in the trade area. Meanwhile, emboldened by the many recent regulatory changes in their favour, unions have been actively seeking further extensions to and entrenchment of their legislative powers.

Gaining the support, or at least acquiescence, of the public for measures contrary to the public's best interest has always been central to the success of rent seeking. In Bert's era, newspapers were the main media conduit for this and some journalists, such as motoring writers or IR specialists, proved willing collaborators. However, many were not, and some became strong advocates of reform. The arrival of around-the-clock electronic media has greatly favoured special interest groups by providing them with a ready and more receptive transmission mechanism, one posing little risk of a detailed questioning of their claims.

It has also meant that interest groups today have much more scope to sell their story to the public directly, using social media and advertising. This is typically executed in ways that encourage the public to see its interests as being aligned with those of the pressure group and its needs, whether it be pharmacists' anti-competitive privileges or auto manufacturers' subsidies. White coats, blue overalls and happy families tell a convincing tale (a boon, no doubt, to the local acting profession). To the extent that governments follow rather than lead 'public opinion', such advertising can exert a powerful political influence. This was perhaps demonstrated most starkly by the ACTU's media campaign against WorkChoices and by the Minerals Council of Australia's campaign against the 'super profits tax'.

The changing nature and political influence of the media has also affected the supply side of the preferment market, through its impact on political representatives and the composition of their offices. There is increasing pressure on ministers to have an immediate (desirably interventionist) solution to the problem or issue of the moment. Failing to do so, straying 'off message' or getting a detail wrong (a 'gaffe') can bring a hapless minister or even a government unstuck. As a consequence, issues managers – media and public relations people and political tacticians – are to be found in increasing numbers in ministerial offices.

The ascendancy of the 'Office' over the 'Department', together with the displacement of policy advisers by political advisers, has created conditions conducive to policymaking 'on the run', including for the benefit of special interests. Getting the ear of a ministerial adviser has arguably never been more important to a 'result' than it is today.

All policy decisions are ultimately political, but the scope to inform them with a balanced assessment of the costs and benefits is considerably diminished in this setting. This has been exacerbated more recently by the disproportionate policy leverage that minority government has given to 'independents' and minority parties, who have particular interests of their own. The twists, turns and reversals of carbon policy provide a disturbing illustration of the forces at work.

What can be done?

In my view, the re-emergence of a 'rent-seeking society' poses a bigger threat to the future living standards of Australians than the ageing of our population or the vicissitudes of world markets. The good news, however, is that we know how to change things for the better, because we've done it before. Moreover, the challenges we faced at that time were considerably greater than they are today.

The transformation of the sclerotic economy of Bert's early years to the productive and competitive one emerging by the end of his life, and the associated changes in societal attitudes and behaviours, were the result of a deliberate government strategy. Its purpose was to detect impediments to performance and devise reforms to remedy them and, importantly, to promote public understanding about why these were needed. Central to its success was the strengthening of processes to ensure the effective scrutiny of policy proposals – within the bureaucracy, ministers' offices and the Cabinet – supported by the commissioning of independent public reviews in policy areas where extensive public consultation was desirable.

All this has been well documented and should be understood. (The OECD upholds it as the 'Australian Model' of reform.) The only question is whether the processes and institutional arrangements that served us so well in the past would still be as effective today. Some have argued that they would not, given among other things the media's seeming intolerance of deliberation and delay. I find that hard to accept. The fundamental principles of good policy process should be timeless, even if the manner of their execution must adapt to the times.

Nevertheless, recent history tells us that good process and the discipline it provides – on rent-seeking and on policymaking generally – cannot be taken for granted. Like the classical tale of Ulysses and the Sirens, it would be nice to think that means could be found to hold the line against any temptations that arise. And I believe there is indeed scope to do more in this area. However, in the end, the crucial factor in sustaining good policy practice is good political leadership. This remains as true today as it was in the time of Stan and Bert Kelly.

Restoring Trust in Public Policy: What Role for the Public Service?

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Restoring Trust in Public Policy: What Role for the Public Service?

The decline of trust

In a recent Australia-wide poll of public trust in the professions, top places were dominated by those who work in the healthcare and emergency fields – paramedics and firefighters coming equal first. In second last spot (49th) were politicians, who were ranked just below real estate agents, talkback radio hosts and sex workers, and eclipsed for the wooden spoon only by door-to-door salespeople.

These results were mirrored in rankings of 100 significant Australians in public life. At the top again were the 'white coats' (Fiona Stanley, Ian Frazer, Charlie Teo), whereas our then serving Prime Minister and Opposition Leader were placed 97th and 98th respectively – outflanked only by Brendan Fevola (99th) and Shane Warne (100th).

I confess that the polls in question were conducted by *Reader's Digest*, and although this venerable journal of the people has a large readership, I cannot vouch for the statistical robustness of its polling. However, the results have been remarkably stable over time. Moreover, they are consistent with a range of professional polls and surveys, which indicate that trust in politicians, and government generally, has been falling significantly.

The most recent of these was conducted by researchers at Monash University and detailed in the sixth *Mapping Social Cohesion* report (Markus 2013). In a 2013 survey of 6000 Australians, political parties and federal parliament ranked at the bottom in the institutional trust stakes (the latter just below trade unions). Moreover, only 27 per cent of respondents said the federal government could be trusted to do the right thing 'almost always' or 'most of the time', compared with 48 per cent in the 2008 survey.

A 2013 Roy Morgan survey found the level of distrust in government to be higher than at any time since polling of this commenced a decade previously. Its survey of professional ethics has also revealed a steady deterioration in public perceptions over time, with only 15 per cent of respondents judging ethical standards within government to be 'high'. In an AFR/Nielsen Poll in April this year, one-half of respondents reportedly thought the Prime Minister 'easily influenced' by minority interests.

Of possibly greater concern, for reasons that will become clear, some opinion polls also suggest a recent decline in trust in *public servants* – at least those not in 'white coat' professions.

Opinion polls cannot be considered 'revealed truth', but the consistency of the results across a range of them seems telling. Moreover, the decline in trust they indicate is manifest in other, more tangible ways, such as minority governments and hung parliaments.

Does this lack of professed trust in politicians – society's delegates – matter? Does it have implications for the role or behaviour of the public service and our other public institutions? My answer to these 'selfy' Dorothy Dixers, unsurprisingly, is 'yes' – resoundingly so with respect to the second question, which I wish to explore in more detail here.

The policymaking dimension

My focus will be the public policy side of government – my area of comparative advantage – rather than administration *per se* or service delivery. All are integral to how government is perceived by the public. And there are clear linkages between them. However, while there has been a shift in academic attention to the program delivery side in more recent years, desirably so given previous neglect, policy development remains more fundamental, and arguably has become neglected in turn. Although bad implementation or delivery can obviously detract from a good policy or program, even the best delivery cannot save a bad policy. Reversing the old maxim, if something is not worth doing, it is not worth doing well. (By the same token, policies need to be designed with an eye to their effective implementation. Implementation failure is often the result of poor policy design.)

If ‘policy’ – essentially, ‘what things to do’ – matters most of all in the long run, so too does public trust in governments’ capacity to do it well. However, such support can be hard to win and to retain, especially from a majority of the community.

One reason for this is that most policy decisions have differential impacts within society. Some groups and individuals will generally gain less than others (think tax or welfare) and some may actually be made worse off (think trade liberalisation or environment protection).

An important class of the latter policies comes under the rubric ‘structural reform’. Structural reform can essentially be *defined* as policy changes that, in changing institutional arrangements and production patterns that depend on them, yield significant benefits to the majority at the cost of the few. The passivity of the former relative to the latter makes reform particularly challenging. Indeed, where such arrangements have persisted for some time, they will come to be regarded as legitimate entitlements and, as we have seen repeatedly, the beneficiaries will strongly oppose any government actions that might erode them.

Lack of trust can be costly

Few members of the community understand, or would take the trouble to understand, the *detail* of a policy and its likely effects. That is entirely rational, given the negligible payoff to such individual endeavour. Gaining an in-depth understanding of specific policies and programs can be hard enough even for professional analysts and administrators.

It follows that if the public is to support – or at least not actively oppose – many policy initiatives, it needs to have some confidence that a government’s decisions would have been well informed, and that the policy in question will operate as intended. Even potential ‘losers’ may be willing to accept a reform if it is widely believed to be beneficial to society at large (especially if any losses are likely to be transitional rather than terminal).

Lack of trust obviously militates against this, heightening the risk of a lack of public confidence even in policy initiatives that would be genuinely beneficial. To the extent that it becomes harder to implement policies needed to meet contemporary challenges, the performance of an economy and the wellbeing of a country’s inhabitants will obviously be affected.

But lack of trust can be economically damaging in itself, by inhibiting the willingness of producers to invest and employ people: actions requiring confidence in the future. While such effects are more commonly associated with 'sovereign risk' of a dramatic kind – such as the potential for expropriation of private assets – there is a continuum that begins well short of this extreme. Empirical analysis has demonstrated a significant correlation internationally between indicators of public trust in government and comparative growth rates.

Lack of confidence in 'the system' foreshortens the horizon (elevates the discount rate) of economic agents and encourages a rent-seeking culture, compounding the economic problems and potentially engendering discord within society. This is all too evident from Australia's own history, which makes recent signs of a re-emergence of rent-seeking a matter of considerable concern, as I sought to highlight in my recent Stan Kelly Lecture (in this volume).

Trust in policy depends more on institutions than politicians

If the opinion polls are even broadly indicative, the public would be unlikely to have confidence in government policies and programs that were seen to be the product of politicians alone. Indeed, a political leader who sought to popularise a policy by personalising it, may instead heighten resistance to it (the travails of 'Obamacare' being a case in point.) Accordingly, to anticipate a theme of this Oration, the notion of a 'responsive' public service, if taken too far, could have the effect of *reducing* the public's trust in policy decisions.

In this, the public's assessment of politicians would be borne out by the day-to-day experience of public servants themselves. The reality is that ministers are generally much stronger on policy goals than on the means of realising them. And, on occasion, as public choice theory explains, they will have an incentive to pursue policies aligned more with the needs of particular groups than with the best interests of society as a whole.

It is crucially important, therefore, that the public service is doing, and is judged to be doing, a solid job in advising and informing government policy decisions. That includes curbing any misplaced enthusiasms or reactions to 'events' that, if translated into policy, could produce unintended consequences or poor outcomes for the community as a whole. In other words, a 'responsive' public service should be providing what is *needed* by the government of the day, as well as what may be wanted.

Political representatives and parties in government come and go. Increasingly, between elections, ministers and even first ministers have been coming and going too. The stable core of 'government' – its deep, enduring infrastructure – are the public service and public institutions. How these are constituted and how they behave and perform are in my view central to the public's trust in policy, and in government itself.

Moreover, periods of instability or weakness at the political level, such as under minority government, place a premium on having stability and capability at the administrative level. This is essential if the line is to be held on core governmental values of transparency, accountability and due process. But it is also needed to temper decisions or deals being contemplated on expedient grounds with an awareness of the full consequences for society.

If the public's trust in government has been falling, this is unlikely to be just because esteem for politicians has been in decline. (It was clearly very low to start with.) It is also unlikely to be due to common human frailties that inevitably also manifest themselves in political life from time to time, though these arguably get greater exposure these days through modern media. The more likely and more fundamental cause has been a widening of the gap between what people expect of their governments and what they are getting.

The perceived 'delivery gap'

The fact that loss of trust is also evident in other countries over the past decade or so suggests that there are some common forces at work. Among developed economies, expectations have undoubtedly risen in parallel with greater affluence and better information (including about the risks of daily life), such that electorates have become increasingly demanding – arguably beyond the capacity of any government to fully satisfy. This 'delivery gap' can be attributed in part to governments themselves and their natural tendency to overstate what they can do for the community. More recently, it will have been exacerbated by the Global Financial Crisis and the curtailment of public expenditure in its aftermath.

Reflecting specifically on the Australian situation, it is also likely that people here have judged that political decisions and actions in more recent years have not been as well informed or implemented as they used to be, or should be. This may partly result from people's experience with how certain policies and programs are working (or not working). In some cases, policy failings have become all too apparent and very quickly – the 'Pink Batts' initiative being perhaps the standout instance in recent times. But it is also likely to reflect people's perceptions about how well the machinery of government is working – that is, the processes through which decisions are made that affect them.

Advertisements of policy untrustworthiness?

Members of the public may not have a detailed understanding of particular policy proposals, nor (rationally) take the trouble to do so, but most people recognise bad process or poor administration when they see them. And insights about these can be readily accessed, whether fairly or not, through a very active media.

Thus, anyone reading a newspaper or otherwise exposed to news or current affairs in recent times could hardly have missed stories of:

- *policy initiatives appearing to come 'out of the blue'* (the baby bonus, future fund, ban on cattle exports to Indonesia, National Broadband Network, etc.)
- *programs being announced without key elements apparently having been agreed or clarified* (National Water Initiative, funding for the National Disability Insurance Scheme or the free dental program, the Timor and Malaysia 'solutions' to migrant smuggling, etc.)
- *key stakeholders not having been consulted on major policies* (state governments on hospital funding, miners on the Resource Super Profits Tax and smaller miners on the Minerals Resource Rent Tax, employee representatives on 'WorkChoices' or employers on the Fair Work Act, etc.)
- *lack of transparency about programs, or the basis for them* (undisclosed subsidies to car companies, Commonwealth Treasury's carbon modelling, etc.)

- *avoidance of long-established and well-regarded practices within government for policy development* (exemptions from Regulatory Impact Statements for more 'sensitive' regulatory actions, bypassing of Cabinet scrutiny, etc.)
- *abrupt reversals to previously announced policy positions, without adequate explanation or justification* (the carbon tax, 457 visa scheme, gambling regulation, union access to business premises, etc.).

Could it be that such stories and, more importantly, the reality behind many of them, have had something to do with the public's (further) loss of trust in government? Could it be that they have lowered public confidence in the integrity of government decision making? And could it also be that such failings have contributed in turn to the ongoing contention around key areas of public policy? It seems hardly necessary to give the answers.

A litany of 'failure'

To be judged 'successful' a policy needs to satisfy two broad conditions: it must do good and be *seen* to do good. The first condition – doing good – is obvious; the second may be less obvious, yet is crucial to ultimate success. For without public acceptance that a policy is likely to be beneficial, it will be difficult to get up and, if it does manage to be implemented, will be vulnerable to reversal, unless public doubts are allayed quickly by results.

Judged by these standards, public policy in Australia has been going through a rough patch, to put it mildly. Specifically, based on the second condition at least (if not both), we must count among recent policy failures: the carbon and mining taxes; the National Broadband Network; key strands of immigration policy (people smuggling and temporary skill-based entry); and of industrial relations policy (regulations related to union powers and constraints on managerial prerogatives).

None of these policies has overcome significant contention within the community, nor won sufficient support to endure. Indeed, the Coalition has just won office promising to reverse them (and has already made a start).

Unlike other instances that could be cited here – like 'grocery watch' or 'fuel watch', or the stillborn 'cash for clunkers' scheme – these policies could not be said to be of minor significance. Indeed some were heralded as transformative. At the very least, policies in these areas are too important not to get right; and certainly too important to fail. Yet it is no exaggeration to say that some have been failures on a monumental scale.

Admittedly, the policy areas could not be said to be straightforward; some are pretty complex, and at least one – addressing global warming – may even be 'wicked'. But this does not mean failure was predestined. On the contrary, I believe it has been the inevitable consequence of how policy development was managed or mismanaged. In each case, one or more elements of 'good process' was neglected or subverted. As a consequence, there has been a lack of understanding and agreement in the community as to why the policy was needed, at least in the form propounded.

Take carbon policy. There are several dimensions to this debacle, but perhaps the most fundamental was that for several years no government was willing to be up-front with the electorate that reducing emissions required raising the price of energy, nor explain convincingly why this was seen as being necessary despite this country's minor contribution to global emissions.

In retrospect, it is clear that initial public support for an Emissions Trading Regime was essentially predicated on ignorance about how it worked. That was hardly a sustainable basis for policy success. Things got even worse once the penny dropped on energy prices, with an ensuing semantic debate about, as the old saying goes, whether something that 'looks like a duck, waddles like a duck and quacks like a duck' was a tax or not. Policy attention then became preoccupied with disbursing (generous) compensation, while trying not to mention the reason for it. Playing the public for a mug, as my father used to put it, is not the best way of winning its trust.

Each of the other areas of policy failure, like Tolstoy's unhappy families, has its own tale of woe, though there are also things in common. For example:

- The National Broadband Network was conceived in haste and obscurity – not the best way to launch a major policy – and, while many, including the Opposition, accepted the broad policy objective, the government was never able to demonstrate to the community's satisfaction, since the necessary work had not been done or made public, that the massive costs and significant risks of the favoured approach were justified.
- The Resource Super Profits Tax was cherrypicked from a broader tax review that was insufficiently independent from government to test crucial policy detail. The political announcement also had a 'gotcha' tone to it that did not resonate well with the public, let alone the industry being targeted. A backlash was inevitable, even though the concept of a resource rent tax had not been opposed in principle by the mining industry. (There is, after all, the precedent of the Petroleum Resource Rent Tax.)
- The Fair Work Act and subsequent legislation, mirroring the WorkChoices experience, did not involve adequate consultation nor proper public explanation as to why key aspects of the policy were needed, given the potentially pervasive impacts. (Even standard impact assessment processes within government were not followed.) People were left to conclude in both cases that ideology or vested interests must have been the real drivers.

In these and other significant areas of policy failure, the underlying problem was that, for various reasons, the policy ideas were not adequately evidence-based or subjected to sufficient scrutiny. That is why, in my valedictory speech on leaving the Productivity Commission, I concluded a long 'to do' list of previously identified productivity-enhancing reforms by assigning top priority to the restoration of 'good process in policy formulation' (Banks 2012b). Undergoing good process does not guarantee that the policies in question will get implemented, as the list itself demonstrates; but, without it, failure is likely whether a policy is implemented or not.

'Good process' and the duty of public servants

The requirements of a 'good' policy process are not rocket science. They are also well documented, including in publications of the Productivity Commission and the Australia and New Zealand School of Government, and should need no elaboration for this audience. The essential point is that they have been designed to ensure that policy ideas, of which there is never a shortage, can be properly tested and contested before implementation – within the bureaucracy, the community, the Cabinet room and, ultimately, within the parliament. That means doing the hard yards to verify that the causes of a 'problem' are properly understood; to clarify that government intervention would help, and to work out which approach is likely to be most cost-effective – all necessitating evidence, consultation and debate.

It is the function of political representatives in a democracy to listen to their constituents and find ways of responding to their problems or needs. This is the mainspring of societal progress. But not all politically inspired ideas are sound and, while some may be good for certain members of the community, they may be bad for others. As indicated, trade-offs of this kind are pervasive in public policy, yet are rarely straightforward to assess. It is an important function of the Public Service to assist political representatives in this essential task.

This includes not only helping to identify the potential consequences, the 'pros and cons', of policies being proposed, but also suggesting alternatives that might better meet a government's legitimate objectives – including when these may not have been actively sought, nor even be entirely welcome. This is the essence of what used to be called, without irony, 'frank and fearless' advice.

Fearless, or merely frank?

New Zealanders prefer to call it 'free and frank' advice, an expression still in common use within government circles over there. I must admit to reservations myself about a requirement on public servants to be 'fearless'. This is a lot to expect from anybody, particularly public servants. (Even decorated soldiers often reveal that their acts of valour involved little forethought.) But we can all aspire to be *frank*. And, provided public servants are adept at how they communicate, they should have nothing to fear.

In any case, the need to be 'fearless' is greatly overstated. In my experience, it is often the case that a government's or minister's favoured course of action is not cast in stone. It may be regarded as a promising way forward, but not with great conviction or following close study. Ministers may not have an appreciation of certain downsides that matter to them, or of alternative means of achieving the same ends. This is especially true of an incoming government that will have framed its policies without the benefit of information available once in office.

Further, it will generally be in a government's own interests to be made aware of the trade-offs in a policy course it is contemplating. A policy that misfires, or that inflicts significant 'collateral damage', can also be very damaging politically, as recent history attests. In the end, policy is the government's call and its call alone – and it will be electorally accountable for how it turns out.

Public servants best serve the public, therefore, by serving well the government of the day: providing government with the analysis and advice needed to make the judgements it has been elected to make. (The Minister for Employment remarked humorously at the dinner for the Institute of Public Administration Australia conference in Canberra, 'when we make our own mistakes, we want to do this fully informed'.) In this way, public servants have the opportunity to make a real difference to the course of public policy, and there have been instances of great significance over the years.

That said, there are limits to the ability of even the most able departmental adviser to press a course of action that is not accepted politically. Senior public servants must perform a delicate balancing act: one in which they are worthy of the public's trust, but also retain the trust of their ministers while 'talking truth to power'. This, to me, is the essence of leadership in the public sector.

New threats to public service effectiveness

Being an effective public service leader in this dual sense is very difficult and entails considerable responsibility. Unlike most CEO jobs, if it is not done well, the ramifications for society, and indeed for future generations, can be grave. It is therefore disquieting that, for various reasons, performing the role well is becoming increasingly difficult.

I am not referring to the policy issues as such. There have *always* been difficult, even 'wicked', problems confronting governments. If anything, there is more information and better technology these days to assist governments to address the contemporary variants. Nevertheless, technological change is generally faster, bringing its own challenges; expectations on government to address societal 'ills' are greater; and there is more interdependence, domestically and internationally, than ever before. Take gambling policy. Once it was enough to ban gambling or let it rip. Today governments are expected to find a middle course; regulating it so as to preserve the recreational benefits for the average player, while minimising the (high) costs associated with 'problem gambling'. That is a better objective, but much harder to attain.

The biggest challenges for public servants today, however, arise not from the complexity of contemporary policy problems, but of the environment in which they must be addressed. In my view, changes to their daily operating environment have made it harder than ever for public servants to 'best serve the public by serving well the government of the day'.

There are three dimensions in particular that I would emphasise, all of which appear mutually interactive, and could be said to constitute a wicked policy problem in their own right.

The Rise (and rise) of 'the Office'

If I refer to the first of these as the 'rise of the Office', I am sure most public servants will know what I mean. Even the general public has had some exposure to the issues, following extensive press coverage of remarks made last year by Terry Moran (2012) and Jennifer Westacott (2012) – two eminent former public servants – at the Institute of Public Administration Australia's International Congress in Melbourne. Attendees at that event were also privileged to hear Armando Iannucci from Britain, creator of the Whitehall tragi-comedy TV series 'The Thick of It'. All three highlighted a shift in the balance of influence on policy decisions from public servants to private advisers, with the rising power of 'the office' coinciding with a decline in its capability and also its transparency. (This is nicely encapsulated, I think, by the very differences between the *The Thick of It* – and indeed our own *Hollowmen* series – and the *Yes, Minister* equivalent from an earlier era.)

This phenomenon did not occur overnight. It could be said to date back four decades to the governments of Whitlam and Fraser. But in key respects there has been an acceleration over time.

For one thing, the average ministerial office today has at least three times as many staff as those earlier administrations. The fact that the Australian Parliament has been accumulating so many advisers is an issue in its own right. A 2010 survey by the OECD placed us, with nearly 300 advisers at the federal level, well above most other countries relative to the number of political representatives. (We don't know the current Australian numbers, because there is no longer a public record of such personnel, notwithstanding the rising significance of their role – another development that is hard to justify and unlikely to promote trust.)

More important than this, however, is the shift in the *composition* of ministers' offices: away from people with policy expertise towards those with political, communication or media management skills. This trend has typically occurred in parallel with a greater number of external appointees, with less experience of government and in some cases little experience at all (characterised by Terry Moran as 'the teenagers in the office'). More of these people are aspiring to a political career of their own than was true in the past, with the list of ministerial office alumni in our parliaments steadily growing.

Had there been no other changes, these alone would have greatly heightened the difficulty facing the public service. For a start, negotiating the office scrum to get to one's minister is inevitably harder than it was. With larger offices and the proliferation of roles within them, communication generally has also become harder, with more people having a say or, worse, purporting to speak for the minister.

A delicious insight into all this played out in the press in July 2013 after the then prime minister's daughter reportedly apologised for likening the halls of power in parliament to the 2004 Lindsay Lohan film *Mean Girls* (in Cleo magazine no less). The prime minister's former press secretary took exception to the comparison, opining on the *Mamamia* blog site: 'It's true that political staff are often young, idealistic and inexperienced', but that doesn't make them 'lazy or bitchy' as they were 'too bloody busy … *running the country'*.

The lack of policy expertise in offices has reduced the scope for departmental policy advice to get purchase or support, particularly when it is longer term in nature or where political 'issues' are seen to arise. Potential policy champions have been thin on the ground in recent years. (When the then treasurer's chief of staff departed a few years ago, I asked a well-placed official who should I now turn to on policy matters. After a long pause, I was informed that there was no-one left at a more senior level.)

The contrast with the key ministerial offices of an earlier era is stark. During the eight years that Bob Hawke was prime minister, for example, his office was headed by four senior public servants in a row, starting with Graham Evans, an experienced and highly regarded official in the Commonwealth Treasury. Moreover, as Evans has recently recounted, there were distinct reporting lines within Hawke's office for policy and political advice, rather than the blurring manifest today. Similar settings existed within John Howard's office. It meant that while political considerations inevitably came into play, good policy advice could generally get a hearing. The policy outcomes of that era speak for themselves.

The challenges to an effective public service presented by these developments have been compounded, in my view, by the subtle erosion of the capacity of our most senior public servants to 'speak truth to power'.

In this respect, the impact of the shift to contract employment and performance-based pay for hitherto 'permanent' public service heads, following legislative changes since the early 1990s, has long been debated among public servants. This has mostly been in private, but the arguments were aired publicly in a celebrated exchange in the *Australian Journal of Public Administration* between a former Australian Public Service Commissioner, Andrew Podger (2007a; 2007b), and the then head of the Prime Minister's Department, Peter Shergold (2007).

Both make cogent points. My own attitude, which no doubt reflects an economist's prejudices, is to look above all to the incentives. If one can be sacked, moved or not renewed for giving unwanted advice, one will tend not to give it. That is not to say that 'character' is irrelevant; nor that exemplary individuals would never go to the wire for something they saw as crucial to discharging their duty properly. (Indeed, during my time at the Productivity Commission I unexpectedly acquired a new Commissioner in just these circumstances.) Moreover, it is also likely that a 'mandarin' who made the transition from the old regime to the new would be unlikely to shed his behavioural habits overnight.

But in the course of time and, importantly, through the selection by ministers of new agency heads to replace the old ones, the incentive system must surely assert itself. This is quietly acknowledged by many senior insiders. One provided the following insight at an ANZSOG roundtable earlier this year: 'We still give advice that includes different options, but we now tend to avoid those we know to be unwelcome'.

The new media

The changed composition of ministerial offices can be explained in large part as a defensive reaction to developments within the fourth estate that have increased the perceived need for 'issues managers' and communications specialists. The media pressures on today's political leaders are indeed intense.

When, after several years abroad, my family and I returned to Australia in the mid-1980s, we found ourselves during a road trip taking a break in Gundagai's famous Niagara Café. On our way out, I recall noticing a faded plaque in honour of a visit to that establishment by John Curtin, dated around 1944. It has led me to reflect ever since on how political life has changed. In the depths of war, Australia's prime minister could well have been driving to the nation's capital on important business and chose to stop, like my family, for a cup of tea. Wartime Gundagai would have been a media-free zone. If our prime minister had tripped and fallen over on the way out of the café, or had had a heated exchange with the local Country Party member, hardly anyone would have known about it. Indeed for most of the slow journey to the nation's capital he would have been *incommunicado*.

Fast forward to the around-the-clock media world of today. No one, least of all a prime minister, can be truly incommunicado anymore. Moreover, the nature of the media's interest in politics has both changed – stumbles get top billing – and increased in intensity. The growth of electronic media has brought a relentless quest for daily, even hourly, content. And to attract and hold a fickle audience, that medium must provide what Dame Edna called 'colour and movement'. When it comes to news or current affairs, stories to do with personalities and conflict, ideally encapsulated in 'sound bites', have become the order of the day.

In this world, there is more pressure than in the 1980s, and certainly than in Curtin's day, for political leaders to have a position on the issue of the moment; indeed to have an instant solution to every perceived 'problem' – desirably involving regulation or money, or both. To the extent that ministers succumb to this pressure, this is not a circumstance that favours the measured, deliberative advice of the public service. But it does favour the more nimble political office with an armoury of manoeuvres and spin at its command.

The upshot is that the public service is all too often placed in reactive mode, often having to justify, and find the least bad way of implementing, a decision made in the heat of the moment without the benefit of its advice. Hence the wry comments one hears in government circles about 'policy-based evidence' and 'regulate first, ask questions later'. Recalling the inversion of the saying 'if something is worth doing', it is perhaps unsurprising that the bureaucracy is regarded as not doing well in this setting.

The advent of 'Oppositionism'

Inherent to the Westminster parliamentary system of government is the concept of an 'Opposition'. Adversarial politics is hard-wired into the system. And contests to establish which side is the fittest to rule can be brutal. That's how things are and it is a system shown to have great strengths. However, it appears to have become more 'oppositionist' over time, to the point where any policy initiative of an encumbent government, no matter how good, risks being opposed out of hand.

This is not unrelated to the media trends just described. There is no 'story' in political agreement (unless a backroom deal can be inferred) let alone in bipartisanship. And the subtleties in *qualified* acceptance – say support for a government's policy objective or parts of its policy package – tend to be lost on the electronic media. Being reasonable is likely to be interpreted merely as weakness and seen as unhelpful by an Opposition struggling to get the public's attention.

Contrast this again with the experience of the 'Reform Era', when for example John Hewson, as leader of the Opposition, not only supported unilateral tariff liberalisation – the first Coalition leader in history to do so – he pressed the government to cut deeper than its declared target of five per cent (and this during an emerging recession). Or take the seamless progression of the fledgling National Competition Policy after the Howard Government replaced the Keating Labor Government that initiated it.

The rot appears to have set in shortly after, when the Goods and Services Tax continued to be opposed by the Labor Opposition after the 1998 election on which it was fought. Though ultimately unsuccessful on that occasion, the stage was set for more such oppositionism, and employed to good effect over recent years by the Coalition in opposition, though admittedly often with more substantive cause.

Oppositionism makes a public servant's life harder in a number of ways. For one thing, it reduces scope for contact with Opposition members, which at times has played a useful educative role and facilitated acceptance of policy proposals. For another, it can lead to a preference for keeping certain details of policy development (such as modelling assumptions) under wraps, raising suspicions about what these might reveal or about political influence on the analysis.

Further, it encourages a government to use the bureaucracy politically to bolster its policy claims. This can take the relatively benign form of citing supportive departmental research to, at the other extreme, getting senior officers to become public advocates for a policy. The latter places departmental officers in an invidious position, particularly where the policy in question is highly contentious politically. If they don't accept their political masters' commands, public servants will be regarded as 'unresponsive' by the Government, with all that that implies these days; if they do, they will be regarded as 'political' by the opposition and face the prospect of retribution when it wins power again.

Other ‘difficulties’ (in brief)

These combined influences have made it harder for the public service to provide the kind of robust support for government decision making that is needed – and no doubt in turn have reduced public trust in their capacity to do so. They are likely to have been compounded by a number of other phenomena of significance that can only be dealt with briefly here.

- One is the strengthening of ‘freedom of information’ laws which, though well motivated, have now reached the point where they strike at the heart of the public servant’s need for confidentiality in providing frank advice to government. It is hard to be frank about policy matters that are politically sensitive when one’s advice risks getting out. In this situation more briefings will be conducted orally, with fewer records kept and reduced opportunity for wider scrutiny within government itself. This also favours the ‘hollowmen’ syndrome and ultimately serves the public ill.
- Another is the proliferation and increased sophistication of special interest groups. Inherent to the political landscape, their influence has risen with the rise of the Office, and the larger and more receptive network of contacts within, and with the new media’s hunger for ‘content’ and its preference for simple stories. This has enabled pressure groups to get even the most self-serving messages out to the public without much fear of critical scrutiny on the way through. The political power of advertising has been evident in such key policy areas as industrial relations, industry assistance, environmental regulation and taxation. (It is instructive, for example, that the Gillard Government insisted on an advertising truce as the precondition for negotiating a replacement to the mining ‘super profits’ tax.)
- Third, and perhaps most topically in Canberra at the moment, are the post-crisis cuts in departmental budgets, which have been unprecedented in scale but thus far have generally conformed to the age-old, uniform ‘efficiency dividend’ model. Without better targeting of specific functions, programs and structures that are adding little or no value, or costing too much, there is the risk of further reducing public sector capability where it matters most, particularly from a policy development perspective. An example of this – one admittedly close to my heart – is the current reduction in the Productivity Commission’s budget. This may see that body lose up to a quarter of its staff at a time when it is sensibly being called upon to provide in-depth analysis and advice on a range of key policy issues. To the extent that this necessitates short cuts, particularly in consultation, the quality and credibility of the Commission’s reporting may be jeopardised. The savings in budgetary terms will be miniscule in an overall sense, but the opportunity cost for the community could be large.

Restoring trust in public policy

The declining trust in government has no doubt been picked up in political focus groups as well as in surveys such as those cited here. In the recent federal election, both sides proclaimed a ‘trust us’ message. In this, the Coalition had the undoubted advantage, in that the trust-reducing events foremost in people’s minds were inevitably associated with the party in power.

The Opposition Leader’s pledge to provide a government that ‘says what it means and means what it says; a government of no surprises and no excuses’ clearly resonated electorally. If this formula were to be reflected in actual conduct in the years ahead, I am sure it would do much to rebuild trust in government and in public policy as well. It would mean, for example – recalling my earlier list – policies *not* appearing out of the blue; programs *not* being announced prematurely; stakeholders *not* being ignored; details of programs and their rationales *not* being suppressed, and policies *not* being dropped or reversed without explanation. This would not only avoid negative visual cues, it might also be expected to result in better policy outcomes, reinforcing the grounds for public confidence.

Whether this eventuates in practice, however, will depend on more than the qualities and inclinations of the political leadership, important though these clearly are. It will depend also on what systems are put into effect to inform and, at times, constrain political decision making, and how effectively these are deployed. Given the intense pressures emanating from the media, and from the public itself, the temptation to pursue short-term tactical advantage can be great, even when this invites strategic failure.

Developments described earlier have seen the erosion of processes and institutions designed to test policy ideas or responses before their adoption, with predictable effect. If trust in public policy is to be restored, this needs to be remedied. In particular, the capacity of the public service to perform its policy advisory role well should receive priority attention.

The foundation for this is the proper functioning of the Cabinet system, such that all significant policy decisions can be both well informed and adequately debated. This brings with it the expectation that ministers will be briefed, requiring public service input. In addition, the distribution of written 'coordination comments' by departments enables different portfolio perspectives to be brought to bear transparently. These should not be curtailed, nor the contents censored or filtered. It follows that an effective Cabinet process requires adequate time. (The announced reintroduction of the 'ten -day rule' for submissions is a promising early development).

Establishing greater balance between the Office and the Department is also a fundamental requirement if substance is to have a chance of prevailing.

In relation to the Office, apart from the need for some senior appointees to have policy experience, advisers should receive training on their roles, duties and obligations (as has already occurred in some jurisdictions). A code of conduct, as recommended by Westacott and Moran, would also be desirable. At the very least, transparency around appointments should be restored to what it was a decade ago.

While 'permanent heads' are now undoubtedly a relic of the past – desirably so in many respects – department heads need more protection against termination for giving unwelcome advice than is presently the case. And their appointment, while perhaps inevitably political in the Australian setting (unlike in New Zealand) needs greater formal scope for merit to be explicitly taken into account. Regardless, no government should seek to enlist senior public servants as advocates for its policy causes (and if they do, this should be resisted).

The provision of robust advice in the public interest would be facilitated by reversing recent changes to the *Freedom of Information Act*. By the same token, transparency should be enhanced where it really matters, such as in relation to Impact Statements for regulatory proposals, and cost-benefit analyses for major government projects. The basis for outlays of taxpayer funds should never be confidential, especially those intended to shore up a firm's or industry's position in the marketplace.

Such changes would make it easier for public service leaders to discharge their responsibilities to citizens as well as to the government of the day. Even without these, there are some actions that can usefully be taken.

One is simply to uphold processes and institutions already in place for the purpose of promoting informed policy decisions. A key one that I have mentioned is Regulation Impact Assessment, which essentially requires departments and agencies to demonstrate that the elements of good process have been followed for any significant regulatory proposal. This requirement, endorsed by the Council of Australian Governments, has potential to be a useful departmental counter to the 'act first, ask questions later' approach that can emerge from ministerial offices. However, many departments have neglected the opportunity. (They include the Treasury, whose well-known disdain for the RIA process has arguably also helped undermine that instrument as a discipline on the regulatory interventions of other portfolios.) A renewed focus under the incoming Government on managerial incentives for compliance is therefore also welcome, although how this is achieved remains to be tested.

Departments could also be more influential in arguing for Green Paper/White Paper processes that enable public scrutiny of policy proposals on key issues, as well as for properly constituted reviews and inquiries where an arm's-length process is desirable. That said, and as argued in the Karmel Lecture in this volume, it is not good practice for agency heads to lead policy reviews that warrant formal independence.

There is also a need to build a culture of ideas, and of respect for evidence, within departments, such that policy issues and options can be well canvassed and able to transcend the immediate concerns of the Office. This can also help government prepare for longer-term issues that are yet to appear on political radars (the early intergenerational research within Treasury being a good example). However, it requires a critical mass of policy analytic capacity, which most departments appear to have forfeited under the pressure of budget cuts. These cuts are also taking their toll on training. This is short-sighted. Managerial training is an investment in future capability and departments neglect it at their peril.

In conclusion

After a decade in which 'spin' has often triumphed over substance in policymaking, these actions may seem a little old fashioned or perhaps overly ambitious. But any observer of contemporary politics could find grounds for concluding that the ascendancy of spin has had its day. While it may once have been possible, as the old saying goes, to fool most of the people most of the time, things have arguably reached the point where it is hard to fool any of the people any of the time. Cynicism about public policy is palpable. And, with low levels of trust, even good policy has become hard to convince the electorate about. This poses a major problem for Australia's progress. The challenges we face as a nation are as great as ever. Restoring the basis for public trust in necessary policy responses is an imperative.

How this might be achieved can be distilled into two words: 'good process'. Without good process, trust can be expected to remain low and policy success elusive. Instituting good process should not be that hard, because we know what it consists of and have witnessed its active use in the past.

Its demise appears to have had more to do with opportunistic politics than any loss of belief in its efficacy for policy. With such opportunism now recognised to have failed, even politically, the time has come to return to what worked so well for us before. Political leadership will be crucial in this, but the public service and its leadership also have a central role to play.

Challenges of Structural Reform: Reflections on Australia's Experience

The 8th Sir John Crawford Lecture,
New Delhi, 10 March 2014

Challenges of Structural Reform: Reflections on Australia's Experience

Introduction

It is a privilege to have been invited to this remarkable city to deliver a lecture in honour of a man who holds such a distinguished place in Australia's policy history.

Sir John Crawford made a major contribution to his country as a public servant and academic in the course of a long and impressive career, informing key decisions of governments of different political persuasions.

As Professor Ross Garnaut has observed, in his own lecture in this series (Garnaut 2004), Crawford had 'a strong belief in sound analysis and research as the foundations of good public policy'. Moreover, he did much to demonstrate his attachment to that principle and put it into practice: first, as founding director of the Bureau of Agricultural Economics – which soon won a pre-eminent place as the policy research base for our rural economy – then as secretary to the departments of Commerce and Trade and, finally, at the Australian National University, where he headed a key research school before rising to the highest levels of leadership there.

In the latter phase of his career, he was also the architect of the Industries Assistance Commission, an independent policy advisory and research body established within the Australian Government to replace the Tariff Board. This followed a request by the then prime minister, who wished to provide a stronger statutory foundation for the recent shift in direction of the board, under Chairman GA Rattigan, towards economic rationality in the public interest.

The 'Commission', as it has come to be known through several changes of name and configuration, is generally recognised in Australia as having been a powerful force for reform. It has developed since Crawford's day in scope (if not size) to encompass an increasingly wide range of areas of public policy. And, as I will relate, the market-based reforms it has advocated have yielded considerable benefits to the Australian community. Indeed, there are grounds for seeing the Commission as Crawford's most enduring legacy.

In crafting that institution, he had the wise counsel and active assistance of WB Carmichael, a senior official at the Tariff Board, who later rose to the top of the new organisation. Their report to the prime minister makes it clear that they saw the settings for research-based policy advice – where, how and by whom it is done – as crucial both to its robustness and its influence (Crawford 1973). They also demonstrated an understanding that research and analysis, in the right institutional setting, can play complementary 'technical' and 'political' roles in advancing reform and, indeed, in supporting good public policy generally.

These are themes that are close to my own heart, as someone who got his first professional job at the old Tariff Board in its final days and, two decades later, was to become the head of its institutional successor. They are themes that I have addressed before (Banks 2005); however, I believe their importance and wider relevance is such that they invite further reflection on such an occasion. In doing so, I am pleased that the co-sponsor of this Crawford Lecture is CUTS International, an organisation in India that has long advocated on behalf of consumers – the welfare of whom, as Adam Smith first clarified, precedes that of producers as the end purpose of public policy.

The reform conundrum

The challenges confronting good public policy are essentially of two kinds: determining *what* to do, and getting it *done*.

The former task is rarely as straightforward as some imagine, being specific to time and circumstance in each country, and contingent on behavioural responses that can be hard to anticipate. That said, in many cases it is more tractable than the latter. Research, analysis and consultation can generally get the decision-maker most of the way. And, where significant doubts or uncertainties remain, monitoring a policy's impacts can help ensure that it ends up being fit for purpose even if it didn't start out that way. (Tax policy is the pre-eminent example. Tax regimes generally evolve through a process of learning by doing or, more crudely, trial and error. The excessive compliance costs to which small businesses were unintentionally subjected when the GST was first introduced provide one case in point; the fiasco of Australia's recent attempt to tax economic rent in the mining sector another, though one apparently less amenable to correction.)

The second challenge – getting a policy implemented – can be a lot tougher, to the extent that the policy in question involves changes to the status quo that are perceived to disadvantage certain sections of society or business, even if yielding gains to the community overall. More to the point, getting changes through can prove particularly difficult where these would essentially withdraw sectional advantages previously conferred by government.

Asymmetry of political pressure

The political challenges confronting structural reforms of this kind are most evident in democracies. But, recalling Winston Churchill's aphorism, other political systems are not immune. Indeed, the earliest and best summary of the reformer's conundrum is to be found in that famous little book of advice to Italian despots of the early sixteenth century. Machiavelli observed in The Prince that in initiating a 'new order of things', the reformer 'has enemies in all who profit from the old order and only lukewarm defenders in those who would benefit from the new'.

That popular support for reform is generally so weak can be explained as a rational stance for the public to take, summarised in the phrase 'concentrated costs, diffuse benefits'. The potential winners from reform individually gain little relative to the losers, even though their gains in aggregate may greatly exceed the smaller group's losses. Moreover, any such gains may seem uncertain and often come about only after any losses have been incurred. The old saying 'a bird in the hand is worth two in the bush' is thus highly relevant to the reform endeavour. Further, the winners from reform will often be ignorant of or deceived about the existence of any gains, as the losers have every incentive to portray the losses they would suffer as a loss to society. Ironically, therefore, the sympathy of the crowd will often lie with those seeking to retain what could properly be described as antisocial privileges.

Governments therefore need good evidence of the wider benefits of reform if they are to turn this situation round. However, the structure of public administration is generally not well suited to providing the necessary information. Within most governments, these structures are configured to promote communication with parts of the economy or community that are seen as politically important. This is a natural development in democratic polities. Its inevitable consequence is fragmented information systems and a tendency for decision-makers to be preoccupied with the 'parts' rather than the 'whole'. This can in turn lead to an almost symbiotic relationship between a 'sponsoring' department and its 'client' groups or, worse, the capture by the latter of the former.

Central agencies – first ministry and finance ministry departments – constitute a potential structural antidote to the phenomenon of bureaucratic sponsorship and partial assessment, but they may not be well equipped for the task, or given the opportunity.

These problems are compounded in countries with federal systems, which give rise to jurisdictional fragmentation overlaying that sectorally. And jurisdictional interests themselves generally differ on some key policy issues. This makes it harder to get agreement than in unitary states and harder to implement national reforms that require it.

These uneven political pressures on governments mean that the dice are generally loaded against reform, to the point where I sometimes feel it is remarkable to see any being implemented at all! (True, we do see lots of policy initiatives called 'reform', but they don't always pass the essential test – producing 'change for the better'.) Yet, as acknowledged by the OECD and other international agencies, Australia has been very successful in times past, both in devising and securing important structural reforms.

My main purpose in this Lecture is not to dwell on the reforms themselves. These are well documented in OECD Surveys and in many Australian sources, including reports by the Productivity Commission. (See, for example, *Review of National Competition Policy*, 2005.) Rather, I want to focus on how the underlying obstacles to reform, those that all governments face, were overcome in Australia during what has come to be known as its 'Reform Era' – the period from 1983 to about 2005.

An ambitious agenda of 'microeconomic reform'

First, to assure you that the reform program has indeed been a substantial one, let me briefly sketch its key elements. In the period in question:

- import tariffs, which had exceeded 100 per cent in effective rate terms for some industries, were reduced to negligible levels;
- financial markets, which had long been bound up in entry barriers, price controls and quotas of various kinds, were liberalised;
- government statutory monopolies in energy, communications, transport and energy were commercialised, corporatised, broken up structurally, exposed to competition and in many cases privatised;
- labour markets were freed from much centralised and prescriptive regulation, allowing enterprises to negotiate directly with their workforces on wages and work practices more attuned to their circumstances; and

- restrictions on competition were systematically reviewed, reduced or removed throughout the economy, with the onus placed on those seeking to retain them to demonstrate that they were in the public interest. (The list of reforms here is extensive, including agricultural marketing cartels, domestic aviation duopoly, retail trading restrictions, entry restrictions in the professions, and price and quantity controls in a host of areas.)

Many of these restrictions and privileges were of long standing and had come to be seen as ‘entitlements’. This was despite the fact that, when introduced, most could never have been justified in the public interest. Moreover, they were in many cases designed to obscure the costs and their true incidence.

I suspect you will appreciate from observing events in your own country, that those groups benefitting from such policies were not about to give them up without a fight. And this threat could not be taken lightly, as they had already demonstrated their political influence in obtaining the anti-competitive privileges in the first place.

So what were the strategies adopted? And have these stood the test of time?

The gains to the community have been large

If I can maintain the suspense a bit longer, I should again assure you that the battle was one worth having, with gains from selected microeconomic reforms projected at the time to exceed five per cent of GDP (Industries Assistance Commission 1992). The very availability of such estimates, and more detailed information about how the potential economy-wide gains would be distributed, in itself played a key role in concentrating minds and building wider political support for the reforms.

The estimated gains were more than realised in practice, with benefits to the community (through lower prices, more choice and higher incomes) that greatly exceeded any losses and adjustment costs. We could convey the overall story in a single chart. This would show on the left-hand side a seemingly inexorable decline in Australia’s per capita GDP ranking internationally – from fifth in 1950 to 18th in 1985 – whereas the right-hand side would reveal an almost symmetric reversal over the next decade and a half.

The enhanced performance of Australia’s economy – its greater flexibility, innovativeness and resilience – also positioned it well to meet the challenges and opportunities of the opening and consequent rise of Asian economies, including notably China – by far the dominant influence so far this century – and India. (The former has since the year 2000 become our largest source of imports and destination for exports; India has in the same period risen from being our 13th to seventh largest trading partner.)

Higher incomes, more jobs

As a result, Australia has experienced 22 consecutive years of positive economic growth, including through the Asian and Global Financial Crises – something unprecedented in our economic history and unique among OECD countries over this period. More importantly, per capita incomes have also increased in most years, and all income groups have generally shared in the benefits (even if not equally). Again, research has confirmed this, including analysis by the Productivity Commission of the distribution of the aggregate gains from infrastructure reforms (amounting to some 2.5 per cent of GDP) both regionally and across the income spectrum (PC 2005).

And, notwithstanding the considerable structural changes in the economy wrought by the reform program – and notably a further significant decline in manufacturing's share of the economy, especially in labour-intensive activities such as textiles and clothing – unemployment steadily fell, reaching record lows by the year 2000, while labour-force participation steadily rose, reaching record highs. (If there were ever a case study of structural reform as a force for net job creation rather than, as commonly thought, job losses, it is to be found in Australia's experience since the 1980s.)

Underlying these gains was a surge in productivity throughout much of Australia's economy, at a rate that was not only historically unprecedented, but that exceeded the much-vaunted contemporary experience of the USA, the productivity leader globally. This was of central importance, because, as Professor Paul Krugman at Massachusetts Institute of Technology has famously put it, 'productivity isn't everything, but in the long run it is almost everything' (Krugman 1994). It is the principal enduring source of rising per capita incomes in an economy, again illustrated well by the Australian experience. (Terms of trade gains took over subsequently, with a related surge in mining and other investment that served to deflate measured productivity; but, as in the past, this has been a temporary experience, marked though it was.)

This experience earned Australia the label 'miracle economy' in an International Monetary Fund report at the end of the 1990s. But if interpreted to mean that the changes were unexpected, or unrelated to policy effort, this term was seriously misleading! Indeed, as indicated, if anything the Australian experience demonstrates how a country can shape its own economic destiny if it pursues the right policy course with sufficient skill and conviction.

The policy 'drivers and enablers' of productivity growth

The policy insight crucial to such a transformation is that national gains in per capita output and incomes – in other words, increases in average living standards – depend above all on the performance of individual enterprises and industries throughout an economy.

It follows that there are really only two mechanisms through which improvements can occur. One is that *firms* individually perform better, which means doing more valuable new things, or doing the same things in better ways (loosely, 'innovation'); the other is through better-performing firms displacing or replacing weaker performers (which economists since Schumpeter have labelled 'creative destruction') such that *industries* perform better. International experience, as well as that for Australia, suggests that the latter can be as important as the former in raising the growth performance of an economy.

The reforms of the 1980s and 90s, outlined earlier, were directed at both mechanisms for overall improvement. On the one hand, they increased the incentives (pressures) on firms to be more cost-conscious and attuned to market wants; on the other, they enhanced their capacity to do so via improved infrastructural capability and regulatory flexibility. All three channels are important to a firm's and indeed an economy's performance, and governments influence each of them.

The most important common ingredient was greater market competition and contestability, particularly through the removal of policy-related measures from the past that had served to reduce these drivers of performance. Introducing such measures had arguably been a major preoccupation of policy in the 1950s to 1970s, so that our governments' contributions in this period could be said to have been anti-growth; in the 1980s and1990s, however, government played a more 'positive' role. It is therefore not really surprising that our performance responded.

Success factors in the reform program

Having completed these brief excursions through the 'what' of Australia's structural reforms, let me at last turn to the 'how'. Given the undoubted political obstacles, what were the ingredients that made Australia's extensive structural reforms possible? And might these be translatable in some way to other countries, including your own?

Sequencing was important

Looking back, one important factor in the Australian 'success story' was how the reforms were sequenced and paced. The major reforms took place roughly in a sequence that yielded some early gains (lower consumer prices and producer input costs) while preparing the way for the reforms that followed. Each of the major reforms also had its own 'space' in the unfolding agenda.

This approach had two important benefits: it enabled sufficient skilled resources within our government administration (always in short supply) to be brought to bear; secondly, it ensured that there could be a focussed discussion about the problems and the solutions, in which the public had time to participate.

The value of this has been reaffirmed in my country by the generally acknowledged failure in more recent years to bring about enduring policy changes in such important areas as broadband communications, mining taxation and carbon policy. These involved much 'reform' effort that would have been more productive if directed at those and other complex areas one at a time, particularly at the design and implementation phases. Instead, the scatter of 'reform' activity merely succeeded in confusing or dividing the public about what was important and why, and has led to setbacks in each of the areas concerned.

The particular sequence chosen during the Reform Era – beginning with the opening of our borders to foreign capital, currency and goods – in itself created pressure for further reforms, especially in key markets 'behind the border', where there were major cost impediments to firms withstanding exposure to global competition. Infrastructure and labour market reforms may not have been pursued with sufficient vigour without this (as seen in other countries that have sought to tackle domestic distortions first).

The various reforms accumulated into a program that ultimately had considerable breadth, bringing the further advantage that those who lost out from some reforms were able to gain from others.

The pace of reform in the different streams varied, however, depending on the nature of the market and the impediments to efficiency. For example, the floating of the currency happened overnight, whereas tariff reform was a graduated process lasting over a decade (and is still not complete). Together with some support programs to ease labour adjustment in key areas or regions, this served to reduce the costs of adjustment – both economic and political.

Information on the 'why' of reform was crucial

These design features, while important, were nevertheless only part of the story. More fundamental to the success of the overall reform program were the efforts to secure general recognition that reform was actually needed. This did not happen overnight, however, and involved an extended process of public education about what was at stake for different groups and society as a whole. This in turn drew on research and evidence that demonstrated the deficiencies of existing policies and the payoffs to be expected from remedying these.

For example, Australia is one of few developed countries to have substantially liberalised its import protection regime *unilaterally*, without seeking prior concessions from its trading partners in World Trade Organization or other international negotiations. This arguably only became possible through credible, publicly available analysis of the costs many Australian firms and industries were bearing as a consequence of the protection afforded others. In particular, as farmers and miners came to appreciate that the tax on imports of manufactures was actually borne by them, not just foreign exporters, they soon became a well-organised countervailing political force for liberalisation.

Similarly, the National Competition Policy reforms depended on the central government's ability to demonstrate that the gains would exceed the costs, and generate sufficient tax revenue to 'compensate' those jurisdictions which gained least or lost out. The costs to businesses of inefficient public utilities became known well ahead of any specific reforms being mooted. And the costs to the economy of hitherto using utilities essentially as an income redistribution vehicle became manifest, disarming interests seeking to maintain this (surreptitious) de facto social policy and alerting those ultimately paying the bill.

Industrial relations (labour market) reform has been a more mixed story. The initial deregulatory moves were founded more on common sense than empirical verification of the costs of the status quo. Australia's centrally planned and antiquated labour market was increasingly showing the strain of having to operate alongside competitive product and capital markets. And, as noted, the early reforms that permitted some decentralisation soon yielded positives for encumbent labour and 'outsiders' alike. The importance of building a case for reform in this sensitive area with its entrenched interests was nevertheless demonstrated subsequently by the consequences of failing to do so adequately for the further deregulation that came under the rubric WorkChoices. This lapse enabled public sympathy to be more readily garnered for the union movement's resistance to the changes, and ended up contributing to the fall of the government that introduced it.

The major reforms that defined this era followed considerable research and public testing of the pros and cons of different possible reform measures. This generally occurred through review processes that made effective use of discussion papers, draft reports or 'green papers'. In most cases, sufficient time was allotted to the consultation processes to enable proposals to be properly explained, digested and responded to, and to inform wider public debate. This was central to the industry assistance and National Competition Policy reform processes, as well as to the major reforms to financial regulation and taxation.

The experience has been that consultation is useful not only to develop and get acceptance for broad reform options, but also to get the detail right in the option that is finally implemented. For example, the Petroleum Resource Rent Tax for offshore ventures took a couple of years to be developed and a couple more to be refined, through intensive consultations with industry, before it was finally implemented in 1989. This contrasts with the so-called 'Resources Super Profit Tax' that was announced in 2010 as a *fait accompli*, without those affected having been consulted on its detailed design. This too contributed to the demise of the (different) government responsible.

Institutions and processes mattered

Evidence, analysis and their conditioning influence on the environment for reform did not occur in a vacuum. Virtually every major reform in that period was preceded by arm's-length public inquiries or reviews commissioned by government. The reviews played a central role in establishing the case for reform, and in identifying (and explaining) the solutions.

The arm's-length nature of these inquiries and reviews had a number of benefits. For one thing, it meant that the reviews were generally seen as being not only 'expert' but above politics – in what were often politically sensitive, as well as complex, areas of public policy. This ensured that their recommendations carried weight with the community. At the same time, the governments of the day had the advantage of 'deniability' and freedom to move. They also had an opportunity, at a distance, to read the public's reaction and to evaluate more accurately the implications of adopting different courses of action.

The fact is that while most members of the public may be ignorant about policy detail, they are not oblivious to good process. Their very ignorance about complex policy matters means that they look to institutions in which they can put their trust, and those institutions and processes can therefore be politically useful in advancing reform.

To achieve this, however, they need to be well constituted and resourced, and to follow open, consultative processes. The experience in Australia is that where these qualities have been lacking, policy reviews have had little real impact. Decisions about who leads the reviews and the degree of perceived independence from the Executive are particularly important in this respect.

The 'Commission' had a central role

While many countries, including India, have initiated ad hoc public inquiries, Australia was for many years the only one to have in place a standing statutory body for this purpose. The Industries Assistance Commission was initially conceived as an institutional counterweight to the power of industry groups to influence decisions about tariffs and government subsidies, but it evolved over time to discharge a much wider remit. The inquiries of its successor body today, the Productivity Commission, cover major policy development and reform issues in all sectors of the economy and across social and environmental, as well as economic, domains (PC 2003).

Importantly, the Commission's independence is enshrined in its own Act of Parliament. Commissioners are appointed by the Governor-General (head of state) and have powers akin to those of the judiciary – but only an advisory role in relation to their policy findings. The Commission's recommendations must be directed at promoting the long-term interests of the Australian community, and its processes and reports open to the public. Commission inquiries follow a similar procedural sequence to royal commissions but with some emphasis on the exposure of its preliminary findings and recommendations in public draft reports (Banks 2011).

As with the best of the more *ad hoc* inquiries and reviews, the Commission's contribution to reform has typically been a dual one – providing evidence for specific reforms, and using it to help inform the public about the *need* for reform, including those sections who stood to gain the most. In this way it has served to create a more balanced (even on occasion supportive) political environment for governments to undertake real reform.

Leadership was paramount

Finally, leaders with the right vision for a better Australia and the skills to realise it, were fundamental to each of the individual success factors just described – they could be said to have been the ultimate success factor.

The Reform Era was unusual in the quality and depth of political leadership at both federal and state levels. Moreover, the leaders of the reformist governments often had the benefit of opposition leaders who were broadly supportive of the major reforms (a less common thing today).

Their effectiveness was further enhanced, however, by other initiatives at the political level for which they were ultimately responsible. These included effective cabinet processes and special committees to provide systematic scrutiny and debate across portfolios.

Concluding remarks

The factors I have identified as contributing to past structural reform successes in Australia have had their value reaffirmed by the more recent failures of government to heed them. That failure tells us that good process in public policy can become a casualty of perceived political imperatives. While such processes may prove 'inconvenient' from time to time, the revealed reality is that, without them, policy actions are more likely to fail the public credibility test and even weaken a government's claims for re-election. That indeed is what transpired in Australia in recent times. It stands in contrast to the preceding record of good policy process yielding good outcomes all round, including under a government of the same party nearly three decades before.

The challenge we now face in Australia is to recapture the acumen exhibited by *both* sides of politics during the Reform Era; to embrace once again an approach to reform that involved careful preparation, good analysis, skilful public communication and the building of coalitions of support. It should therefore be noted that Australia's incoming federal government attracted considerable electoral support on the basis of it restoring good policy practice. Its performance thus far shows promise in this regard, though not uniformly so, and will be closely watched in the months ahead.

Whether any of this is relevant to India's circumstances I leave you to judge. I would only observe that while countries have their own histories, cultures and institutions – and our two countries are obviously very different – all share in common the need to overcome the same basic obstacle to reform. Sir John Crawford's insight was that, at bottom, this is a matter of information failure. And he devoted himself to redressing it, through his own research and advice to governments and, more enduringly, the public institutions he helped create. I wish you well, therefore, in finding your own path forward. Your reform needs and challenges are obviously great. But so too are the potential rewards.

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This volume contains four 'named' lectures delivered over the past year by Gary Banks in his current capacity as Dean of ANZSOG and following his retirement from the Australian Productivity Commission. Reflecting his previous organisation's commitment to evidence-based policymaking, and that of his new organisation to enhancing public sector capability, the lectures share a preoccupation with 'good process': what it means, why it matters and how it can be secured.

Professor Banks argues that lapses in recent years from previous policy-making standards have led to costly failures in such important areas as taxation, industrial relations, infrastructure and 'climate' policy. More than that, they are likely to have contributed to the observed decline in public trust in government policies and indeed in government itself.

According to Banks, President Truman's declaration that 'good policy is good politics' was borne out during the structural Reform Era in Australia (lasting two decades from the early 1980s) and has been reaffirmed by the contrary experience since. However, he stresses that it has been good process – approaches to policymaking that emphasise information, deliberation, consultation and explanation – that has underpinned both the other P's. He contends that, without good process, even the best of policies can be bad politics.

Reserve Bank Governor Glenn Stevens underlines these themes in a foreword contained in this volume. In commenting on the lectures, he remarks that a 'combination of intellectual rigour and realism as to how to secure support for reform is on display throughout'.

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