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Electoral reform in South Australia

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ELECTORAL REFORM IN SOUTH AUSTRALIA

(Excerpts from the John Curtin Memorial Lecture delivered in Perth on 17th July, 1976, by the Premier, Mr. Don Dunstan.)

(After arguing that one vote one value was the cornerstone of modern representative democracy and quoting from various U.S. judgements that upheld this, the Premier went on to trace the history of the fight to enshrine this principle in the South Australian Constitution.)

In 1855, South Australia was the first place in the world to provide for manhood suffrage in its Lower House of Parliament and to divide electoral districts into approximately equal numbers. Unfortunately for the people of South Australia, the principle of equal apportionment was not written into the Constitution but into the Electoral Act.

The change of population in the State led to disproportionate electorates and led to a majority in the House of Assembly for the conservatives. At the same time the Legislative Council also became dominated by the same group of people because although there was a Statewide vote for Council elections and each vote had the same value, not every elector got a vote because suffrage was based on property.

This combination of forces meant that in the 1870's the Constitution of both Houses was clearly anti-democratic and in 1872, they were able to change the Constitution to provide that there should be twice the number of seats in the country districts as in the city, regardless of population. At the same time, they split the Legislative Council into districts and weighted the votes of the country areas. Their actions thus provided two bulwarks against democratic action within South Australia: a gerrymandered Lower House and an Upper House elected on a property suffrage with, again, gerrymandered boundaries. They rightly felt that they were well-insulated against the growing forces of democracy and labour in the community.

In subsequent redistributions, the conservative majority in the Upper House carefully managed electoral redistributions which put the voters in the urban and mining districts at a disadvantage compared with other districts in the State. The mining districts were of course not within the metropolitan area but because the miners traditionally voted Labor, they were disadvantaged in the same way as city-dwellers.

The fight to get back to the original proposal for the Constitution of the House of Assembly continued for the rest of the century. At the end of the last century, Tom Playford the First was Premier of South Australia and he (like his grandson later) was opposed to any sort of legislative apportionment that would be based on one vote one value. He summed up very well what has been the attitude of conservative forces in Australia ever since, the sort of attitude one might imagine Sir Charles Court ~~to~~ supporting. He said: "You find the thieves, rogues, prostitutes, vagabonds and ne'er-do-wells, if you find them anywhere at all, in the settled areas of population, and it is not proper that they should have the same say in the future of the State as the more wealthy and intalligent people who live in the country."

But despite the extraordinary mal-apportionment, it was still possible then for Labor governments to be elected because at that time there were multiple-member electorates and non-preferential voting. The voice of the minority, of the shearers and miners and other workers, could still get heard in the State. In 1910, South Australia was the first place in the world to elect the first Labor government with a majority in its own right. From then on, it redoubled its efforts to get back to one vote one value but each time its proposals were knocked back in the Legislative Council.

In 1933, Labor won government with a very substantial majority in the Lower House but despite an enormous plurality of the popular vote it held only five out of the twenty seats in the Upper House. At the next elections in 1936, because of a number of political factors then extant, Labor was decimated. It split into three parties and the newly-combined Liberal-Country League gained government under Sir Richard Butler.

They immediately set about to change the Constitution to entrench themselves in power. They introduced single-member electorates, reduced the number of Members in the Assembly and provided for two country seats to each city seat although by that time, already 54% of the people lived in the city. Sir Richard Butler said that these measures would keep the Labor Party out of office for 20 years. He was wrong. They kept the Labor Party out for 33 years.

Yet during those 33 years, the majority of people in South Australia kept voting for the Labor Party. Sir Thomas Playford won a majority of votes in only two out of eight elections yet he was Premier for 27 years. He maintained the rightness of the position which then obtained in South Australia and indeed said that you didn't elect governments by counting heads; that nowhere in the world was there such a principle in electoral matters as one vote one value. What you had to do was to look to economic interests and geographical areas to provide representation in Parliament.

In 1954, he introduced a redistribution. The reason for this was that with the industrialisation of South Australia the existing distribution of electorates was not working entirely to his advantage and in consequence, he further disadvantaged the people in the metropolitan area. He increased the quota per Member in the city and decreased the quota per Member in the country areas. This of course kept him in government quite effectively.

However he made a serious mistake and that was he did not realise he had passed the stage in electoral support under this new gerrymander where the electoral system would give him sufficient protection. He underestimated the rebellion of the people of South Australia against what he was doing.

In 1962, the Labor Party, despite gross disadvantages, managed to win 19 seats in a House of Assembly of 39. Sir Thomas Playford's government had returned 18 Members and there were two Independents. One of these had been at one time a Member of the Labor Party and he was promptly made

Minister of Lands. The other Independent became that Speaker so well-known to most students of Australian Constitutional history, Mr. Thomas Stett.

Sir Thomas Playford had to govern during the '62-'65 Parliament with a majority of one. Again he endeavoured to put through a redistribution. But he was faced with a problem. Under Section 8 of the South Australian Constitution, to alter the set-up of either House he had to have an absolute majority of both Houses voting at the second and third readings of the Bill; that is, he had in this instance to have 20 of the 39 Assembly votes.

Now he had nineteen votes on the floor. He could get 20 votes, of course, by the Speaker's casting vote if the House were evenly divided. But the Labor Party had only to send one Member out of the division and the Speaker didn't get a casting vote. So Playford never got his 20 votes.

He then started on an exercise which would get the Speaker to say that nevertheless he concurred in the vote and sign the Bill. We knew this little ploy was on. If he had succeeded, this would have presented us with a number of Constitutional problems because of the reluctance of the courts to intervene by injunction concerning the certificates of a Speaker about the internal measures of the House. Following a New South Wales case at the time, the courts were reluctant to look at the form and content of the passing of measures in the House once a Speaker's vote was given.

There were problems, but we in the Labor Party were ready for them. We not only had our papers ready to seek the injunctions and to go to the Privy Council if necessary but we had the Trades and Labor Council ready for a whole series of rolling strikes and demonstrators marching on Parliament. Tom Playford thought better of it.

Nevertheless he introduced his Bill to Parliament and it was a new departure in electoral mal-apportionment. On this occasion he proposed that people were ~~not~~ to be elected

basis of interests. The interests were mainly to be divided into industrial and rural. Those areas which were to be defined as rural were those in which the majority of the population gained the major part of their income from agriculture, horticulture and other primary interests or servicing those interests. But from the definition of primary interests, mining, quarrying, forestry and fishery were carefully excluded because people engaged in these occupations tended to vote Labor. His Bill didn't pass.

In 1965, the Labor Party, with 56% of the vote, at last won government. We immediately presented a Bill to provide for one vote one value in the House of Assembly and it was duly defeated in the Legislative Council. While we had a great plurality of votes, we still had only four Members in the Council. And by this time, the Council had become an even more solid bastion of the Establishment because of the crooked enrolment system which the Liberals had set up.

In order to get on the roll the people who were eligible - and this number was already restricted because of the property franchise - had to go along voluntarily to enrol. The enrolment form was so complicated it was like doing The Times crossword puzzle and if you didn't fill it in properly they didn't send it back - they simply discarded it. But there was a group of people who were invited to go on the roll by government direction through the Electoral Office and these were the people who registered title to property at the Lands Titles Office. Each month a clerk would go round to the Lands Titles Office, get the details of someone who had registered and the type of property, search out his name on the residential roll of the House of Assembly and send out his card fully filled out for him by the Electoral Office and say to him, "Sign here, you are apparently entitled to enrol for elections for the Upper House." But not all householders who had this right were given similar privileges and in consequence, the roll was hopelessly unrepresentative of even that limited electorate which was eligible.

When we got into office, I was the Attorney-General and in charge of the Electoral Office. We took a computer run of those who were apparently qualified to be on the roll for Upper House elections. We redesigned the enrolment form, filled it in for householders and sent it to them at government expense. I was criticized for this gross waste of expenditure and dastardly socialist plot. It took more than one run of the roll to get the enrolment up to date. When we originally sent out the enrolment forms, it was at a time when the jury lists were taken from the Legislative Council roll and the Liberals went around saying, "Don't sign to go on the roll, you'll be called for Jury service." So we altered the lists for jury service to House of Assembly list. But it was not till after the 1970 elections that we were able to get up-to-date lists for the Legislative Assembly.

Meanwhile, at the election in 1968, we got 53% of the vote but we were defeated. We lost two seats and lost government. There was an enormous outcry because we had been able to bring about a whole series of social reforms in South Australia and the majority of people wanted a continuance of our programme. But the Hall government came in and again Mr. Stott was back in the chair.

The Hall government had gone to the '68 election with a programme of re-gerrymandering the State; i.e. they were going to re-align boundaries but do nothing about the imbalance between the city and the country. By this time, 67% of the people lived in the metropolitan area and they were going to be able to elect only one-third of the Members of the Assembly.

There was a by-election for one of Labor's nineteen seats because the Court of Disputed Returns overthrew the election which we had won by one vote. At that by-election, this programme of Hall's was once more put to the people. If they had won this by-election they would have had a Constitutional majority on the floor of the House. They would have re-gerrymandered in the Playford manner and the Labor Party would have been out of office for the rest of the century because 24% of the people would have effectively controlled the assembly. But we won the by-election.

By this time, the outcry concerning electoral reform had grown to such a stage that Mr. Hall decided he had to defuse the issue. What is more, the existing distribution, bad as it was, was being undone by the spread of people from the metropolitan area into the surrounding country districts. It was quite clear that if he did not redistribute he would lose the next State election simply because of the rate at which Labor people were moving across the border from the metropolitan area into the district of Alexandra. So he decided that he would bring in a measure which was not according to his programme at the election. It would be a less bad distribution but still weight the vote heavily in favour of the country. He introduced a measure which provided for an increase in the number of seats and at the same time give the country a quota of 9,000 per Member as against the city's 15,500. The Labor Party agreed to let that pass as an improvement on the situation, not what we considered right but the lesser of two evils.

Mr. Hall called an election in 1970 over the issue of water supply for the State, an issue which he thought would swing him a considerable number of votes. It didn't. Under the new system the voting strength of the Labor Party managed to prevail and we took office in 1970.

We again put forward a measure for one vote one value in the Lower House; it was refused in the Upper House. We put forward a move for adult suffrage in the Upper House; they turned it down.

In 1973 we went to an election in which the question of electoral reform was again in the forefront of Labor's policies. Here we had an advantage over the Western Australian Constitution because there is a peculiar deadlock provision in the South Australian Constitution whereas Western Australia has no such provision at all. The deadlock provision acts this way: if a measure put up by the Lower House is refused in the Upper House, the Lower House can then go to an election. Having been returned, it can put up the same measure in identical form. If this is refused once more, the Upper House can be faced with a double

dissolution. All the Members of both Houses would then go to an election at the one time.

You might think that this would not have served us well at all since the Upper House was rigged so badly and we would simply be re-electing people on the same suffrage. But in fact it did serve us well in 1973. The Labor Party had been trying to work these deadlock provisions since 1910 but on no occasion until 1973 was it elected for a consecutive term so that we had never been able to put up a Bill for a second time immediately after an election. In the 1973 elections the question of electoral reform had come so far to the fore of political debate and popular feeling that we won two out of the five districts of the Legislative Council and we were only about 2,000 votes short in two other districts.

We used the period between the election in March and the calling of Parliament together in June to mount an enormous enrolment drive on the remaining unenrolled Labor voters in the two Legislative Council districts we had come close to winning. We put something like 5-6,000 Labor voters on the roll in each district by marshalling our forces and getting out there and knocking on doors. When Parliament met in June the Legislative Councillors knew very well that if they went to another early election the result could be very different and we could have a majority in the Upper House immediately. What is more, only half the Legislative Council normally goes to an election at one time but in a double dissolution they would all go and some of those who missed out on part of their normal terms would not have qualified for their pensions.

We put up the adult suffrage Bill and a rearguard action was immediately established by the Leader of the Opposition in the Legislative Council, Mr. Ren DeGaris. Mr. DeGaris had been the outstanding spokesman for the existing enrolment system. He believed in giving a vote only to those people "who had a stake in the community". When previous measures had been put up by the Lower House

and refused in the Upper House, he said that the Legislative Council, after all, was not to be subject to the occasional whims or popular cries which were put about amongst the populace but that they alone knew the permanent will of the people.

Now Mr. DeGaris suddenly emerged as the arch democrat of the State. He said that our policies expressed at the election had demanded one vote one value ^{for both Houses of Parliament and there could be no vote: value effective} unless there was proportional representation. Therefore, they would not agree to adult suffrage in the Upper House unless with it went ^{1 vote 1 value} proportional representation.

The real reason for his move was this: the Upper House had twenty Members; the President had no deliberative vote. By introducing the Senate system of proportional representation, the House would have inevitably divided ten-all. The government would have to find the President and it would therefore have a permanent minority on the floor of the House. This was the little ploy he devised to prevent the situation from changing where the conservative minority maintained the right of veto over the popular rule of the people. But we were too good for him.

We introduced a Bill for adult suffrage in the same form and at the same time we introduced a separate Bill for an increase of two Members in the Upper House, a provision that the President would have a deliberative vote and a provision for proportional representation on a party list system with a single transferrable vote. Now that deprived him of the whole of his argument. He tried all sorts of stunts after that but he wasn't able to keep the forces in the Upper House together. They knew that unless this measure was accepted we would go to a double dissolution immediately. I let them see in my bag the advice to the Governor. So they let the Bills through.

We already have one half of the Legislative Council elected on the new system. The other half will use this system at the next elections. In consequence, we will

then have the most representative Legislative Council in the British-speaking world from previously having had the most unrepresentative.

All these moves did not, of course, cope with the situation in the House of Assembly. We were unable until the next election for the Legislative Council to get through one vote one value for Lower House elections. In 1975 we went to an election and again the question of legislative apportionment on the basis of one vote one value was in the forefront of our platform. After the election, we had a Constitutional majority in the Lower House and ten out of 21 Members in the Upper House. There were two members of the Liberal Movement in addition to the remainder of those who were in the Liberal and Country Party. The Liberal Movement, a split from the Liberal Party, had committed itself to the principle of one vote one value.

We introduced a measure which has passed now in both Houses and been put into effect. It set up an Electoral Commission which can't be tampered with by any executive government. It is hedged with protections so that nobody can manipulate the executive action of appointing people to this Commission so that they are biased in any way. It is required to redistribute the electorates for the Lower House on the basis of one vote one value. In doing that, it has to take into account the community interests and not run lines down the middle of roads or through the middle of the community. The provision is entrenched in the Constitution and can't be altered without a referendum of the people.

The first report of this Commission will come down this month. It will mean that at the next election there is no weighted vote anywhere in the State; that the people of the State of South Australia will have the effective democracy described by the Chief Justice of the United States Supreme Court. They will all have an equal say in the future of the State with every other citizen within it.

That is a fight which we have won; it's the beginning of a fight for effective democracy within the community in Australia. I don't suggest that the attainment of effective democracy within representative institutions is the whole fight for democracy. Social democrats believe that the democratic principle must inform the whole of social life and not merely be confined to the areas of representative government, but it is the first necessary step.

Now the situation here in Western Australia is similarly disastrous to the one which we faced in South Australia. In what might be called the Forrest Road Ploy the boundaries in this State are so rigged that country voters have vastly more say in the affairs of Western Australia than metropolitan voters. In Forrest Road which divides the electorate of Dale from the electorate of Gosnells the citizen on one side have twice the voting power as citizens on the other side. In the elections for the Legislative Council they may be privileged in relation to those of Gosnells, have little reason to be pleased about this state of affairs because in relation to the voters of Murchison-Eyre they too are disadvantaged. Whereas it takes 6,800 of them to elect one Member to the Assembly it takes only 2,100 in Murchison-Eyre to elect their representative. And in the Legislative Council elections their vote is worth only one-tenth of that of the electors in the Lower-North Province.

In fact the malapportionment of the Legislative Assembly in Western Australia can be measured on the scale which has now been internationally adopted by psephologists for measuring the fairness of electoral apportionment. Western Australia qualifies in the worst category as terrible. In the Legislative Council it is even worse; 29% of electors of the State can elect a majority of the Legislative Council. That means that it only requires 15% of the voters to control the Legislative Council because you only need to get 50% of the votes plus one in each of those districts. Those people then have an effective right of veto over everything that the people of this State may vote on.

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Now no-one can seriously call that democracy and I think it's not surprising that generally speaking, Sir Charles Court tends not to talk about democracy. He talks about other things but not about people's rule, because the people of Western Australia are deprived of it. That means the people in Australia generally are disadvantaged. There is every reason for people in Australia to be concerned about the effectiveness of democracy everywhere but nowhere more than with their own country. We're all members of this nation; we're all concerned with the maintenance of rights within this country.

If we are to demonstrate against dictatorship and against unfair electoral apportionment elsewhere in the world, if we are to protest about the rule of the Greek Colonels, the rule of General Franco ~~or the~~ or the lack of effective say in government in the Comicon countries, then surely we are the more concerned to see to it that that is effective everywhere within our own.

The situation in Western Australia is worse than we had to face in South Australia and worse than in Mr. Bjelke-Petersen's Queensland and that is a disgrace to the whole of Australia. Everyone of us as democrats must be concerned to see that it alters and that every person in this community has his or her say equally with everyone else in their own future. The fight for democracy has to be in the forefront of Labor policy. It was always the fight of John Curtin; it must be always the fight of all of us.