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Machinery of Referendums Public Hearing, October 29 2009

Overview : Not the Main Game

I don't wish to be a killjoy but I must say at the outset that the deliberations this committee is having about both the machinery of referendums legislation and also the question of community engagement and communication, while no doubt worthwhile, will count for very little in the main game – that is, trying to wheedle a Yes vote out of the Australian electorate (8 out of 44). I'm sure the committee will make a number of sensible and insightful recommendations about an anachronistic process, but I'm afraid this is merely chipping away at the edges.

After the less than pleasurable experience of fighting 17 referendum campaigns since 1973, I've reached the following conclusion: there should not be Yes and No cases at all because no government should ever put a referendum to an increasingly sceptical electorate unless both sides of politics are committed to a Yes vote – and to all questions to be put. A cast iron agreement from the opposition to support or you can kiss goodbye to the chances of carrying the referendum – no matter how apparently innocuous the referendum question is.

Thus there wouldn't be a No case – except perhaps one championed and funded by private interest groups. In a politically contested referendum the No case will nearly always win because referendums are decided not on the merits of the case, not on the rationality of the argument but on ignorance, doubt and emotion. And if one side – the No side - is playing on fear and ignorance in the Australian electorate, that side will nearly always win.

Indeed the very process of referendums is a poor means of gauging public opinion on any matter. The archives of all the political market research companies are filled with opinion surveys that are hugely at variance with referendum outcomes. Despite the shortcomings of many polls and some pollsters, I believe that the result of a properly conducted survey of a few thousand voters will be a more accurate representation of the community view than an actual referendum result of the entire

electorate. This is because the pollster asks a very simple question directly and in plain English. *Do you think the federal government and the state governments should be able to refer powers to each other when they agree to do this*, asks the pollster. *Do you think local government should be able to be directly funded by the federal government*. Of course they should say the punters and the polls predict a 70-80% yes vote. But the referendum result a few days later gets only half this figure. Who is right here – the polls or the referendum result itself? I believe the polls are.

I have been in this silly game myself. I told my client, the Australian Local Government Association in 1988 that 80% of the electorate supported the principle of direct funding of local government. But did I think the referendum would pass. No way. I think we did well to get 34% Yes.

Why is this? The main reason is that one side of politics found it politically opportune to oppose it, even though it supported the principle. And the second reason, almost as significant, (and a key to the unhappy history of the Yes vote in Australian referendums) the electorate was not asked whether they supported direct funding of local government; rather, they were given a pencil and several official pieces of paper with coats of arms, ushered into a cardboard box and asked whether they supported an act to change the constitution so as to allow something or other. "No way am I supporting this important, official major change", thinks the voter.... - I thought it was about more money for my local council.

So my starting position is: don't have referendums if opposed by the other side and therefore don't worry about Yes and No cases. And unless we can do something about the daunting nature of the officialese in the voting process, expect the No vote to remain the heavy favourite.

Having said this, I'm sure I can be more constructive about communications initiatives. But, as I understand the aims of this committee I don't think it's dealing with the main game here.

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Some Notes on Engagement, Content, Process and Expenditure

1. Engaging the Public

- How to make constitutional issues more appealing
- Best techniques to inform and stimulate interest

We must start by accepting the fact that only a minority is ever going to be interested or engaged. It is possibly an elitist concept anyway to assume that we must engage most voters in the constitutional process. Most will not be engaged. If we did not have compulsory voting, then we would, I suspect, be happy to try and engage the 50-60% who would vote in Australia. So let's define engagement as interest to less than half the electorate. In fact if the referendum is about, what to most, is esoteric purely constitutional tinkering at the margin, we might define engagement as a 5% goal. If the referendum can somehow be related to ordinary people's pursuits – health, education, etc – we can aim higher.

So how to engage the maximum in the minority. You have to start the process early – at least a year out from the referendum and ideally longer. You might consider some sort of semi-permanent panel or body - made up of more than just the usual suspects. Some appointed from organised interest groups, some appointed from community groups, some selected by some form of ballot system perhaps. Most statutory authorities and government corporations have community consultative bodies that have various means of choosing representatives – these seem to work well. This body would send out regular bulletins on issues surrounding the subject by a variety of established and new technology means. It might appoint community ambassadors to try and engage the community at the grass roots level. It might employ PR companies to stimulate media interest and it would, if at all possible, come up with examples of how this particular referendum result will impact on ordinary lives. The biggest problem to overcome is ignorance and fear of risk. So time and relevance are the keys to engagement.

2. Yes - No Case: Content

- Is Yes/No case the most appropriate document
- Goal of the Yes/No pamphlet
- Information provided prior to the referendum

First point to be made is: "they" don't read the document. Who is "they?" – "they" is not the 1% who get their rocks off about issues of constitutional change, nor is it the further 10-20% with a definite interest in politics and government. The "they" is the majority in suburban middle Australia – everyone on this committee I would expect knows them intimately. And "they" don't read the document. I've seen surveys purporting to show that most voters "read" the document. I take these results with a big grain of salt – I don't regard reading as opening the envelope, flicking for a few seconds through a page or two, sticking it on the top of the fridge for a few weeks before it is lost or discarded.

In its current form the Yes/No document is a waste of money – and an addressed mass mailing to every voter is big money – probably not much change out of \$30 million. But I think some sort of brochure/pamphlet is required – but one that is not the only form of communication. The Yes/No document would come at the end of multiple less formal communications and it would be much shorter – 200-300 words and designed to be read in small grabs. Because, unfortunately, this is how most people read these days. It would be creatively laid out, with input by experts in plain English. It would be pitched at the lowest common denominator with pointers for the more interested to find more detail either on line or in printed form on request.

The goal of the document is to take the fear out of the process, to demystify the question and to sum up a year's worth of other communications. And I'm not convinced an addressed document is five or six times more effective than an unaddressed document as I think this is probably the cost differential today.

3. Yes - No Case: Processes and Public Dissemination

- Appropriateness of processes for preparing Yes - No cases
- Alternative sources of information
- More or less information?
- Pamphlet vs alternative methods

As mentioned, I'm attracted to the concept of a semi-permanent or regularly meeting panel or board or body – even a referendum commission – and the preparation of material would be its responsibility. The politicians would probably want oversight or sign off.

It's important that material be disseminated by a variety of methods and technologies. This committee or panel should determine which information channels should be used. There should be a summary pamphlet at the end but only after many forms of information dissemination have been utilised. You can't be too prescriptive here because things are changing so rapidly – eg. you would not use social networking sites today because it would be inappropriate and counter productive. But in 2 or 3 years time maybe. But you would reach people with a multiplicity of much shorter information grabs – using most of the new technologies – internet, twitter, mobile telephony. The electoral office, I understand has begun collecting email addresses on a voluntary basis. This will grow to be a very valuable communication channel.

The aim of transmitting information through multiple channels is to demystify the process and to take the threat and confusion out of constitutional change. And most importantly to try and get they key messages out into the community and encourage the subject to be a water-cooler topic. You won't get voters to write Yes because they've been flooded with new technology messages but you might if these messages have led to the topic's being mentioned in ordinary conversations (Barack Obama, contrary to popular mythology didn't defuse middle America's apprehension by sophisticated new messaging technologies. Sure he used online messaging but

he used it to get names and addresses after which networks of community members would make personal contact and extend personal networks).

It may be appropriate here to mention the **referendum question** and how it appears on the ballot paper. It would help the process enormously if the question confronting voters was as simple and straight forward as possible and without the preamble of asking whether they were in favour of an act to change the constitution so as to'

4. Limitation on Government Spending

Big money won't really help the Yes vote. Time and entry into the community psyche are the keys. By all means have largish budgets for designers, PR campaigns and community network assisters...

But I'm wary of short big budget advertising bursts. These nearly always help the No case. It's far easier to sell a message that says "Don't risk it, don't do it and here's why" than it is to sell a more complicated message that necessarily combines combating fear with rational reasons for changing something. Political advertising is fast losing its cache anyway. And, unfortunately, I regret very much to say that the few political advertising messages that do have impact and cut through are usually the negative ones.

The 1999 model had a lot to recommend it but one feature that was not a success was the provision of big money allocated to three advertising campaigns – the Yes case, the No case and the supposedly neutral, government, so-called information campaign. What happened was that the Yes campaign, already burdened with a difficult to sell model, supported by the elites and not Mr and Mrs suburbia, also additionally had to cop 2 advertising campaigns against it – the one official No case against and also an unofficial No case posing as the public education campaign by the government. This "neutral" campaign played a vital role in the No case by very effectively communicating that this is a major, dangerous change being contemplated.

