

Daryl Melham, MP



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When Daryl Melham is not looking into the role and function of the Australian Law Reform Commission he is quite busy doing everything else. Evelyn McWilliams spoke to him in his electorate office about himself, the law, the Committee he chairs and its review of the Commission.

Take the train to Revesby, in Sydney's south west, and you discover, as you leave the station, a neat row of shops undistinguishable from suburban shops anywhere. Except that above one of them is a large black and white sign, plain as a pikestaff, announcing the office of 'Daryl Melham MP, Labor Member for Banks'.

In the reception of his electorate office the Member for Banks is nowhere to be seen but a display of icons on the wall suggests where he has come from. Portraits of Jack Lang, John Curtin, Doc Evatt, Ben Chifley and — largest of all — Gough Whitlam inform the visitor none too subtly that this is Labor heartland. 'Subtle' is not the word to describe Daryl Melham. One member of the Parliamentary Press Gallery preferred to use a phrase: 'With Melham, what you see is what you get'.

Even had he the taste for subtlety Daryl Melham would probably not have the time to indulge it. He is a member of three Caucus committees and three parliamentary committees and he is chairing the House of Representatives Standing Committee on Legal and Constitutional Affairs — the Committee that is looking at the role and function of the Australian Law Reform Commission. When he isn't in Canberra he is active in his electorate. On the afternoon of my visit his electorate office hums as busily as a thriving medical centre. He shepherds visitors in and out with hardly a sentence break. Our meeting lasted about 50 minutes and he scarcely stopped for breath, showing no signs of reticence on any subject I could nominate. In his maiden speech before Parliament in 1990 Daryl Melham quoted both Whitlam and Chifley at some length and he shows every sign of doing the same in ordinary conversation.

'What I liked about Whitlam was that he lifted the horizons of people. He raised their expectations. A lot of what we're doing now as a government has its roots in what Whitlam did. Whitlam dragged us kicking and screaming into the twentieth century.'

Other Labor leaders might prefer to claim that last initiative as their own but Daryl Melham sees Paul Keating as inheriting much of Whitlam's spoils.

'This last Federal election was very similar to the 1974 election. This electorate embraced Whitlam in the 70's and it embraced Paul Keating in the '93 election. Keating re-embraced the vision of Whitlam in things like Mabo and superannuation. Mabo was only possible because of the *Racial Discrimination Act* — which was an Act of the Whitlam government. It's the Act that makes us all equal in a pluralist society. It's our Bill of Rights.'

It's also the Act that was under threat of a 'technical suspension' some weeks ago at a crucial stage of the Mabo negotiations. At the beginning of October it seemed that the RDA would be suspended and that the States would run the proposed land tribunal system leaving the Commonwealth to intervene if it saw fit. The proposal had the support of key Cabinet Ministers but it sent alarm bells ringing loudly for many Labor MP's. Daryl Melham made no secret of his opposition to the proposal.

'A technical suspension of the RDA would have been the end of Mabo. And I think people are only just realising that.'

Just what happened to turn the debate around may never be known, but the Prime Minister announced that the RDA would not be suspended

after all. Many commentators attribute much of the credit for that decision to some hard lobbying and canny political manoeuvring by the Member for Banks. Alan Ramsey, political columnist for the *Sydney Morning Herald*, says of Melham: 'He is not devious in a political sense but he knows how to win. He's someone to watch.'

He is also persistent. He won pre-selection for the seat of Banks after a long and arduous internal factional struggle. In his favour he had a high recognition rate among voters. The story goes that, during his election campaign, people remembered him as the barrow boy who accompanied his grandmother when she sold flowers and vegetables in the streets. In his maiden speech to Parliament (delivered, in *This is your life* fashion, to the cheers of over 200 barrackers from his electorate, prompting the Deputy Speaker to bring the galleries to order!) Melham saluted the many people — family, friends and colleagues — who contributed to his elevation to Parliament, reserving a special mention for his fellow directors and staff of the Revesby Workers Club. He is still a vice-president and director of the Club and describes it as an important means of keeping in touch with his electorate.

His family is another levelling influence. As one of 10 children Daryl Melham still lives at home with his widowed mother and shares a bedroom with two brothers. Incredibly, he cannot recall any fights at home. 'There was enormous warmth and love in the family. We were all made to feel special . . . We all enjoyed one another's company.' His father migrated to Australia from Lebanon in 1926 at the age of twelve and worked in Panania as a bootmaker and market gardener. On a return visit to Lebanon he married and brought his wife back to Panania. Five of their children, including Daryl, graduated from university. Like so many influences on his life, Daryl Melham traces the origins of this to the Whitlam government.

'I would not have been able to go to university but for Whitlam's policy of bringing in free tertiary education. That's one of the reasons I joined the Labor Party. I also remembered that he took us out of Vietnam. And I had a brother who would have been conscripted if it had not been for Whitlam.' He became politicised at university, joined the Labor Party, and completed degrees in economics and law. His 10 years in the law encompassed a brief spell as a solicitor in private practice followed by work as a solicitor with the Legal Aid Commission, then as a barrister and public defender specialising in criminal law. But he was not going to remain in law for ever. 'I

didn't regard myself as a flashy lawyer,' he says. 'I regarded myself as a people person. And politics is about people.'

Throughout the 80's, as he fought for preselection, Daryl Melham heard the voices that dismissed the achievements of the Whitlam government and he abhorred them. 'What hurt me during the early Hawke government was to hear ministers denigrating the Whitlam government. Through the 80's we had a government that was just intent on economic rationalism. I have never put my faith in the market ideology. There is a role for government to intervene in the market place to prevent the rich and powerful oppressing the weak and less powerful.'

As a public defender, Daryl Melham was charged with protecting the interests of the weak and less powerful. As a politician, nothing has changed. He brings to political life strong views on recent changes to the law and the legal system.

'Governments need to be careful we don't become part of the prosecution culture. I have noticed a lot of advice coming from attorney-general's departments with a prosecution slant on it. A lot of the recommendations are to cut away the rights of the accused or the freedom of the individual. The push to abolish the unsworn statement in New South Wales, for example. Where does it come from? The main impetus is because some judges in various jurisdictions have gotten the law wrong and have given inappropriate directives to the jury. The outcome is a move to abolish the dock statement.'

Other problems, in his view, originate with the fourth estate.

'I really have reservations about the way the media reports cases before a verdict. The Lindy Chamberlain case is a classic example. It would have been very difficult to have empanelled a jury in Australia that didn't have a particular opinion because the case was thrashed out in the press on a daily basis. The press worked up a lynch mob mentality. Another example was the 1988 New South Wales State election. It was fought on law and order with the conservatives running hard on truth in sentencing. I believe the Labor Party abrogated its responsibilities because it moved away from defending what was then a humane policy in our prison system (that came about as the result of the Nagle Royal Commission).'

For the same reason, Melham is a firm opponent of the death penalty. 'I have never supported it because the law occasionally gets it horrendously wrong. Take the recent cases in England of the so-called Birmingham Six and the Guildford Four. Those people were framed. Everyone got caught up in the lynch mob mentality.'

As Chairperson of the House of Representatives Standing Committee on Legal and Constitutional Affairs, Daryl Melham has been busy conducting public and private hearings on the role and function

of the Australian Law Reform Commission. The Committee has received a large number of submissions on the ALRC — not all of them positive — and will report in March next year. Daryl Melham believes that the interregnum between the end of Justice Elizabeth Evatt's term as President and the announcement of a new President provides an opportune moment for a review of the ALRC.

'I don't apologise for saying that I'm a supporter of the ALRC. This inquiry is appropriate at the moment because it will give the Commission the opportunity to determine where it's heading from now until the turn of the century. I'd like to see an enhanced role for the Commission. I think there's enormous support on the Committee for the ALRC. But it has to justify its existence. Its existence cannot be taken for granted. We have had some private hearings already and I have been impressed with the high regard in which the Commission is held, not just by the legal community but by the business community. A lot of professionals have volunteered, or been co-opted, to work as specialists on references and they have provided their services free-of-charge. There is obviously an enormous reservoir of good will towards the Commission.

'But I think one of the things the Committee is examining is whether the ALRC is functioning at its optimum capacity and this means looking at the structures to see if they are relevant. I have an open mind about that. For example, there are areas where the ALRC is sharing resources with other agencies. A question for the Committee is: should these other law reform agencies be brought under the umbrella of the ALRC so that you would have specialist divisions within the Commission?'

The Committee is also considering whether the Commission ought to continue submitting draft Bills to accompany its recommendations. Draft legislation has been seen as an important component of a law reform report. Developing policy to the point where drafting instructions can be prepared has been said to add precision and sharpness to Commission recommendations. From a pragmatic standpoint, it may enable the Commission to present a workable set of

recommendations that demonstrably could be implemented at the legislative will of the Government. But the practicality of this approach is open to question and Daryl Melham has already formed a view.

'Without involving the Committee, I certainly do not see the role of the ALRC as drafting legislation. I think we have the Office of Parliamentary Counsel and the Office of Legislative Drafting for that. That's not to say that some reports should not contain some draft provisions. One criticism in the past has been that some reports have taken a bit longer to prepare than was hoped. Well, we're living in a very rapidly changing society and I think that, if you are hoping to influence government policy or to effect or implement changes, then reports have to be obtained reasonably quickly.'

A review of the role and function of the ALRC needs also to consider the projects that are appropriate for the Commission to undertake. On this question, Daryl Melham seems to have an open mind, though he makes no secret of his contempt for the prevailing economic rationalist philosophy of the 80's.

'I was a bit startled that a lot of recent references have to do with corporate Australia or white collar Australia. They are very different from the earlier references. But I think that's a reflection of where a lot of problems have arisen. We were let down by corporate Australia and governments needed to address those problems. That's an area where you need government intervention and regulation. You just can't leave it to the corporate cowboys.'

Giving short shrift to corporate Australia, Daryl Melham brings the conversation neatly back to his preferred agenda — social justice. 'That free market thinking was based on profit and greed and it didn't take into account human values, human spirit and human cost,' he says. I ask him if he thinks he could be described as naive in some ways. In reply, he recites the famous words of Ben Chifley:

I do not think I could be called a young radical. But if I think a thing is worth fighting for I will fight for the right and truth and justice shall prevail.

But even Chifley does not get to have the last word. 'In many ways I suppose I am naive. I am very trusting. But I think it's the only way to be. What you see is what you get. I think that's the way to sum me up.'