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Government not Gridlock

Tony Abbott

It is terrific to be here with the members and supporters of The Samuel Griffith Society. It is great to be with people who appreciate and cherish our Constitution and the other traditions which have made us the country that we are.

I am honoured to be here two years running.

I said at the close of my presentation in 2016 that, as a nation, we should focus on our strengths more than our weaknesses. Having said that in 2016, and having done my best to focus on our constitutional and cultural strengths, in this address I want to focus on what I think is a constitutional and cultural weakness. That is the inability of centre-right governments to get centre-right legislation through the Parliament because of the power and the nature of the contemporary Senate. Because of this, I believe that, at least when centre-right governments are in office, we have gridlock, not government; and we have governments that are in office but not in power.

What I want to do in this address is to outline what I think is the contemporary reality, to look at some of the reasons for this predicament, and then to chart a possible way forward. (I

understand that my friend and colleague, Senator James Paterson, will give what might be described as an address in reply afterwards.)

The biggest public policy problem that we have is the inability of government to live within its means; and, yet, centre-right measures to deal with this problem consistently fail to pass the Senate, and there is no better illustration of this than the fate of the 2014 Budget.

The 2014 Budget proposed a range of measures – all of which were long-term structural economic reforms and all of which would have had the impact of sustainably and substantially reducing government spending. We wanted to replace male total average weekly earnings indexation for social security benefits with indexation based on the consumer price index. That would have quite significantly slowed the growth of social security spending over time.

We wanted to say to young people: you cannot leave school and go on the dole; you have either to be learning or earning because the last thing we want is to set you up for an unsatisfactory life by subsidising idleness.

We said that once the youngest child had left home to go to school there should be no further access to family tax benefit part B, certainly for middle income and upper income families.

We wanted to deregulate universities because we thought that if there was one institution in our society that was surely capable of standing on its own two feet, charging its own fees, it was universities.

And we wanted to start the process of restoring funding responsibilities for public schools and public hospitals to the States. None of these measures made it through the Senate even though all of them were essentials to the Budget strategy of 2014. In fact, the only significant Budget measure of 2014 that made it through the Senate was the temporary deficit reduction

levy; in other words, all of the legislative savings failed, but the one tax increase passed.

What we saw was a graphic illustration of a Senate that would pass centre-left measures but would not pass centre-right ones.

The Turnbull Government has drawn the obvious conclusion from the 2014 Budget that the only way we would ever balance the budget is to increase taxes, even though this obviously has impacts on economic growth. And so, since the 2014 Budget, we have had superannuation tax increases and, in the 2017 Budget, we had the bank tax; and, notwithstanding those tax increases, we have a situation where the return to surplus, essential if generational theft is to be avoided, is still mirage-like beyond the forward estimates period.

The problem when centre-right governments introduce centre-left measures is that they invariably end up looking weak and unprincipled. That was my problem when we brought in the temporary deficit reduction levy and, regrettably, it is the current Government's problem for the superannuation tax and the bank tax.

Why has the Senate become so difficult? Well, in part, it is because the Senate has always been, along with the United States Senate, the world's most powerful upper house. In almost all material respects; it has almost identical powers to the House of Representatives. But there has been a very significant change in the last 30 years. Prior to 1984, there were five senators elected per State in a normal half-Senate election: to get three senators out of five, in other words a majority in that State, you only needed 51 percent of the vote. Since 1984, there have been six senators per State in a half-Senate election and to get four out of six you need 58 percent of the vote. And only once, in Queensland in 2004, has that ever been fluked.

But it is not just the Senate's electoral arithmetic that has

changed; the Senate's culture has changed as well. Some of us are old enough to remember the so-called constitutional crisis of 1975. The line that was pedalled back then was that the Senate should be a house of review, not a house of rejection. And it is true that, in those days, most people did think that the Senate should be a house of review. But since those days there has been an extraordinary growth in the mind of Senate minorities that they have a mandate which is every bit as morally legitimate as the mandate of the Government of the day.

The last balance of power party that worked with the Government of the day, that actually took responsibility for difficult legislation, was the Australian Democrats. It worked with the Howard Government to introduce the Goods and Services Tax back at the turn of the century. And because the Democrats took responsibility for a difficult but necessary economic reform, they suffered massive internal divisions and were ultimately obliterated by the electorate.

An obvious lesson has been drawn from the fate of the Democrats by minor parties and independents: do not take responsibility for politically difficult things.

So what should we do? We can maintain business as usual. Now, under business as usual, our polity will look less and less like polities of the countries we are accustomed to compare ourselves with, the United States and the United Kingdom, and more and more like Italy. We are unlike the United States, because while their Senate is just as difficult as ours, while the President of the day has just as much difficulty getting his legislation through the Congress as our Prime Minister of the centre-right has getting legislation through the Parliament, at least the President has security of tenure which centre-right prime ministers in this country do not have.

And if we look at the United Kingdom, there is a degree of security of tenure provided to Conservative prime ministers by

their electoral college system; and certainly the House of Lords can only delay legislation, it cannot reject it. So our polity will be a different beast in the decades to come than that which we have assumed it to be under a business as usual scenario. Indeed, it would take a crisis, and probably a Labor government in a time of crisis, before we would tackle the debt and deficit issues that we have.

Paradoxically, under business as usual only a centre-left government could get centre-right measures through Parliament because only a centre-left government could count on the support of enough other votes to get its legislation passed.

That is the first way of approaching things; another way of approaching things would be to say, well, you just have to be better and better at selling yourselves and you have to be readier to promise difficult measures up-front before an election if you are to expect a Senate dominated by a populist cross-bench to support them.

It is true that the Abbott Government did succeed in repealing the carbon tax and the mining tax: they were clear election commitments.

It is true that we did eventually succeed in persuading the then Senate to repeal the school children's bonus and the low income supplement; again, they had been commitments that we made at the election. We were not able to persuade the Senate to support reduced spending on public schools and public hospitals even though they were clear commitments that we made in the 2013 election campaign and had been ferociously attacked for so doing. And, while the Turnbull Government certainly did eventually get the Australian Building and Construction Commission legislation through the Senate, it was in a somewhat watered down form.

So, as things stand, even if you promise difficult, contentious measures before elections, even if you cop all the

political slack for putting those forward, you cannot be confident that your mandate will be respected by the Senate. Take, for instance, the Government's commitment to a plebiscite on same-sex marriage. There could be few things that were clearer in the 2016 election campaign than the Government's commitment to a plebiscite on same-sex marriage, but twice that has been refused by the Senate.

The third option: we could reduce the size of the Senate. That would also require reducing the size of the House of Representatives; I do not think that is realistic. The hardest thing is to try and get five politicians, five sitting members, to go into four seats; it is a recipe for political disaster.

We could increase the size of the Senate so we have seven senators per State to be elected at a half-Senate election. That would reduce the vote required to get four out of seven to 50 percent, but I think we have enough politicians already. I do not think many would support increasing the size of the Parliament.

Finally, the fifth option is to reduce the power of the Senate. This is what the Howard Government put forward in 2003. It was obvious at that stage that the Senate was going to be a problem, with the demise of the Australian Democrats; so, in 2003, the Howard Government proposed, amongst other things, an amendment to section 57 of the Constitution, such that, if the Senate rejected legislation three months apart, it would go to a joint sitting of both houses without the need of a double dissolution first.

I can imagine that in a situation such as this, the immediate reaction to such a proposal would be, well, if you reduce the power of the Senate, you give bad governments more of an opportunity to ram through bad legislation.

The problem is, centre-left legislation can go through anyway, because a populist cross-bench will almost always support more spending, more regulating and more taxes on the

so-called rich. So centre-left governments do not have difficulty; it is centre-right governments that have the difficulty and I would argue that centre-right governments, and centre-right governments alone, under normal circumstances, have the will to put solutions in place.

Again, I know that an audience such as this, quite rightly, are reluctant constitutional reformers. We should not lightly change the Constitution that has served us so well for more than a century. And yet, we should not be afraid to change when it is clearly change for the better. And let us face it, the constitutional founders envisioned from time to time the Constitution might need to be changed – obviously they did. Had they believed it should be set in stone forever, there would have been no section 128 mechanism for making alterations possible.

If we look at our ultimate political guide and guru, Edmund Burke, the father of modern conservatism, he said that a country without the means of change is a country without the means of its own preservation. So we cannot be against all change; we need to be sensible about the change we support.

Here is my proposal which I put before you knowing that here is an audience both expert and, in broad terms, sympathetic. My hope is that by putting this proposition to you, there will be an element of testing and I will be better able to gauge the wisdom and feasibility of taking it forward.

I have to say I would be happy to fight an election with a simultaneous referendum proposal along the lines that John Howard put forward in 2003 because it would give the people of Australia a very clear choice – do you want government or do you want gridlock? Do you want a government that can make promises with a realistic prospect of being able to keep them? Or, do you want government that, with the best will in the world, will be prevented by the Parliament from doing that which it said it would do.

I have not always been a favourite of Western Australian conservatives, in particular because I wrote a book years ago called *Battlelines* where, amongst other things, I suggested that we look at amending the Constitution to allow, under certain circumstances, for the Commonwealth to have the power, in narrowly defined circumstances, to override the States.

I put that proposal forward because, in those days, the end of the Howard era, we had what was by and large a very good federal government that was being taken advantage of by a series of, by and large, very profligate State governments. The job of the conservative is not to apply some kind of theoretical abstractions to life. The job of the conservative is to identify the principal problems of the day and to put forward practical solutions.

Today, our problem is less bad State governments although they have not gone away. Today our problem is a Commonwealth Government that wants to do the right thing but cannot because, all too often, the Senate will not let it. In the end, the ultimate challenge for all of us, but particularly for conservatives, is to solve problems. That is what distinguishes us from ideologues of the left and of the right; we are practical problem-solvers. We are not pure pragmatists because we have sets of principles and values that have stood the test of time and that we passionately believe in. But, in the end, it is the solution to these problems or for the better management of these problems that our values and our principles should be applied.