

August 2009

The Gods visit the sins of the fathers upon the children

You can trace the recent history of referenda in New Zealand back to the 1980s when trust in both our elected representatives and our electoral system plummeted. It was in this period that the then Labour Government established the Royal Commission on the Electoral System (which recommended a move to a proportional voting system¹), and that the National party (then in Opposition) promised to introduce “direct democracy” legislation, if elected. It is probably fair to say that National were not natural flag-bearers for Citizens Initiated Referenda (CIR)—or any other form of direct democracy for that matter—but were smart enough to recognise the public mood. National went on to win the 1990 election and passed the Citizens Initiated Referenda Act in 1993. It is somewhat poetic therefore that it is another National government that must deal with the can of worms delivered by the voters in last week’s referendum.

Preliminary results show that voter turnout was 54.04% and that of the 1,622,952 people who voted, 1,420,959 or 87.6% voted ‘No’. Just 191,495 people (11.81%) voted ‘Yes’. Voter turnout has variously been described as both low and significant, depending on which side of the fence you sit on. It is low when compared to turnout at General Elections, for example, but it is higher than for many local body elections—which do of course deliver a binding outcome. Turnout was higher than I had expected—a poll taken before the referendum found that 75% of respondents thought the referendum was a waste of money—but high enough to be taken as a mandate for change? No.

Predictably supporters of the so-called pro-smacking campaign are calling for an immediate law change and Larry Baldock has suggested the Prime Minister put the House into urgency. John Key, however, continues to say he sees no need to change a law that is working. After Cabinet met this week, Key announced that the government will ask the Police and the Ministry of Social Development to review their procedures and include a referral process between the agencies and that MSD will bring forward their review of section 59 planned for the end of the year. The Police will be asked to continue to report on the operation of the current law on a six-monthly or yearly basis for the next three years.

Even before referendum votes were counted, it was widely assumed that the majority of voters would vote no. Reasons for this are many and varied but the Prime Minister’s statement in June that whatever the outcome of the referendum he had no intention of changing the law is probably significant. It could be argued that people wanting the law to stay as it is simply had no incentive to vote, and if this is the case, the referendum has been a missed opportunity, both to show support for the current law and to send a strong message to settle the debate.

And I for one still want to know: how many of the people who voted ‘No’ understand that the current law doesn’t forbid smacking? Can they imagine a law change that makes children exempt from the provisions of the Crimes Act making the assault of a person unlawful? And whose protection of whose legal rights were they thinking of when they cast their vote?

Citizens initiated referenda allow the voice of the voters to be heard, but do not guarantee that politicians will listen². In this case at least, let’s hope so.

Nicola Shirlaw

¹ Interestingly the Royal Commission on the Electoral System was in favour of a proportional voting system but did not recommend referenda describing them as “blunt” and “crude”, were concerned that they could be misused and considered that non-binding referenda ended up being just a survey of public opinion.

² “Left Turn” Stephen Church, Victoria University Press 2000

Parliament

Announced

Job Ops

Earlier this month the Government released details of its youth employment initiative. Called Job Ops the scheme is aimed at 16-24 year olds with low or no qualifications and will subsidise employers \$5000 for each young person hired into an entry level job for at least 6 months. The Government has set aside \$20million which it hopes will fund 4000 young people into employment.

To be eligible for the subsidy the job must be a fulltime position (at least 30 hours/week for at least 6 months), the young person must be either 16 or 17 or 18-24 and currently receiving the unemployment benefit, and the job must not replace a current employee or a job lost to redundancy. Employers will receive an up front payment of \$3000, and a further \$2000 once the young person has completed 6 months work. In return, employers have to agree to pay at least the minimum wage. Interestingly, (or at least Labour thought so) a job will not be eligible for the Job Ops subsidy if the employment agreement provides for a 90 day trial period. This, only months after National passed its much trumpeted legislation aimed at making it easier for workers to get into employment.

For more information see www.workandincome.govt.nz or employers can call the Work and Income Employer Line on 0800 778 008.

Welcome Home Loan scheme extended

The Government has announced three changes to the Welcome Home Loan scheme—the government-funded mortgage scheme to help low and middle income first home buyers. The current loan cap of \$280,000 will increase to \$350,000 in November, for the first time the scheme will cover borrowing to build a new home (providing the borrower owns the land the house is to be built on), and building a first home on multiple-owned Maori land. Banks have been reluctant to lend for housing on multiple-owned land as it cannot be used a security for the loan. More information at www.welcomehomeloan.co.nz

Changes to sickness benefit

The Government has announced new policy likely to affect all long-term sickness beneficiaries. Under the new policy, a person who has received the sickness benefit continuously for 12 months will be sent to a designated doctor for a second opinion as to fitness for work. Currently, a person becomes eligible for the sickness or invalid benefit once they have been declared unfit for work by a doctor. Work and Income require an initial review after four weeks and then every 13 weeks. The Government is said to be concerned at the high number of people on a sickness benefit unfit to work because of alcohol and drug abuse.

Deposit scheme to continue

The Government has announced that the Deposit Guarantee Scheme is to be extended. The Scheme was introduced by the previous government in October 2008, and covers all retail deposits up to any amount in all New Zealand registered banks, building societies, credit unions and finance companies. Although at the time our banking system was considered stable, the guarantee was considered necessary after several other countries, including Australia, introduced similar schemes and there were concerns New Zealand investors would take their money out of New Zealand banks and invest overseas. The Scheme was set to expire October 2010, but National, who

supported the Scheme when it was introduced, has announced it will extend the guarantee for an additional year to match the Australian scheme.

Introduced

Child and Family Protection Bill

The Government has introduced a Bill to provide greater protections for children affected by domestic violence. The Child and Family Protection Bill will allow the Family Court to review parent contact (custody and access) arrangements within a few weeks of a temporary protection order being made, tighten procedures to ensure there are no opportunities for gaps between temporary and final protection orders and clarify that when a protected person dies their children will remain protected by whatever order was in place.

The Government's other family violence bill, the Domestic Violence (Enhancing Safety) Bill allowing Police to issue "on the spot" protection orders, is still working its way through Parliament.

Crimes (Provocation Repeal) Amendment Bill

Also a Government Bill, this amends the Crimes Act to abolish the partial defence of provocation. Provocation is a partial defence that, if successful, reduces a conviction from murder to manslaughter. The Law Commission has twice recommended that the defence be removed (in 2001 and 2007), and it has been the subject of intense public debate after the use of the defence in two recent high-profile murder trials. The Bill has the support of Parliament and passed its first reading on a unanimous vote. Lianne Dalziel, Labour's Justice spokesperson, has introduced a Member's Bill, Crimes (Abolition of Defence of Provocation) Amendment Bill, but strongly supports the Government Bill

Employment Relations (Statutory Minimum Redundancy Entitlements) Amendment Bill

Labour MP Darien Fenton has had her Member's Bill providing minimum entitlements for workers made redundant drawn from the ballot. Currently, there are no automatic redundancy provisions in law. Employees are entitled to redundancy notice and compensation only if this is provided for in their individual or collective employment agreement. Fenton's Bill amends the Employment Relations Act to provide minimum statutory entitlements for employees if made redundant.

A report completed June 2008 by Business New Zealand, the State Services Commission and the CTU recommended that the government investigate statutory redundancy compensation and redundancy support.

Fenton has delayed the first reading of her Bill to give all parties the opportunity to consider their position.

Credit Reforms (Responsible Lending) Bill

Labour MP Charles Chauvel has also had his Member's Bill drawn from the ballot. Introduced in the House last week Chauvel's Bill, the Credit Reforms (Responsible Lending) Bill, proposes capping the interest rate lenders can charge on credit contracts at 48%. Aimed at loan sharks, the Bill amends the Credit Contract and Consumer Finance Act to require lenders to act responsibly, to consider the actual means of the borrower and their ability to service the debt. Several overseas countries, including Australia, already have similar legislation. Labour, the Greens and the Maori Party have agreed to support the Bill but this would be insufficient to have the Bill referred to select committee.

Legislation Update

Legislation	Stage and Progress	Impact
Children, Young Persons & Their Families Amendment Bill (No.6)	Labour Government Bill. Reported back from select committee. Reinstated.	Increases the age of young people covered by the Bill to 17 years.
Children, Young Persons & Their Families (Youth Court Jurisdiction & Orders) Amendment Bill	Government Bill. Submissions closed. Report now due 27 November.	Introduces measures aimed at reducing violent and repeat offending by children and young people.
Corrections (Contract Management of Prisons) Amendment Bill	Government Bill. Report due 26 September.	Allows for competitive tendering for the management of prisons.
Criminal Investigations (Bodily Samples) Amendment Bill	Government Bill. Submissions closed. Report was due 12 August, but now due 1 September	Gives Police wide powers to collect DNA samples from people before they are charged or convicted.
Disputes Tribunal Amendment Bill	Government Bill. Passed 27 July (see page 4).	Expands jurisdiction of Disputes Tribunal.
Domestic Violence (Enhancing Safety) Bill	Government Bill. Submissions closed. Reported back.	Introduces “on the spot” orders issued by Police to protect victims of domestic violence.
Education Amendment Bill	Government Bill. Report due 28 August.	Bill to help identify unregistered teachers and reduce compliance costs of Police vetting.
Gambling Amendment Bill (No.2)	Labour Bill. Reported back. Second Reading 12 May.	Contains technical amendments to allow original Act (2003) to operate as intended.
Gangs and Organised Crime Bill	Government Bill. Submissions closed. Reported back (see page 4).	Increased penalties for participation in organised criminal groups.
Immigration Bill	Labour Government Bill. Reinstated. Second Reading March 2009	Rewrites and consolidates immigration legislation, introduces new visas.
Judicial Matters Bill	Labour Government Bill. Reported back.	Establishes Office of Judicial Conduct Commissioner to receive complaints about conduct of Judges.
Land Transport Amendment Bill (No.4)	Labour Government Bill. Reinstated. Passed (see page 4).	Increases powers of police to deal with drug-impaired drivers.
Legal Services Amendment Bill	Labour Government Bill. Picked up by National. Select Committee report due 2 October.	Simplifies legal aid process for victims of crime at Parole Board hearings and coronial inquests.
Local Government (Auckland Council) Bill	Government Bill. Submissions closed. Report due 4 September.	One of three Bills provide for the proposed new local government structure for Auckland.
Patents Bill	Government Bill. Submissions to Commerce committee close 2 July.	Updates New Zealand’s patents regime.
Public Health Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Revises public health legislation including border protection and quarantine provisions.
Residential Tenancies Amendment Bill	Government Bill. Submissions closed. Report due 5 October.	Reflects significant changes in the rental market since the 1986 Act.
Sale and Supply of Liquor and Liquor Enforcement Bill	Labour Government Bill. Reinstated. Submissions closed. Report was due 10 September, now due 1 November.	Gives communities greater say in liquor licensing decisions, makes it an offence for adults to supply alcohol to minors without parental consent.
Sale of Liquor (Objections to Applications) Amendment Bill	Member’s Bill (George Hawkins). Submissions closed. Reinstated.	Restricts the number of liquor outlets and makes wider provisions for objections to licenses.
Search and Surveillance Bill	Government Bill. Submissions close 18 September (see page 4).	Widens ranges of offences for which communications can be intercepted, allows electronic applications for search warrants.
Sentencing (Offender Levy) Amendment Bill	Government Bill. Submissions closed. Reported back (see page 4).	Imposes a \$50 levy on offenders at a time of sentencing.
Sentencing and Parole Reform Bill	Government Bill. Submissions closed. Report now due 30 September.	Introduces tougher parole laws. Bill also introduces “three strikes” policy for serious offences.
Taxation (International Taxation, Life Insurance and Remedial Matters) Bill	Labour Government Bill. Reinstated. Submissions closed. Reported back. Second Reading 4 August.	Introduces business tax reforms and payroll giving system for charitable donations.
Waka Umanga (Maori Corporations) Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Provides for the establishment of new legal entities by tribal groups or Maori associations.

Submissions requested

Crimes (Provocation Repeal) Amendment Bill

Having received the unanimous support of the House (see above) this Bill was referred to the Justice and Electoral committee. *Submissions close 31 August.*

Search and Surveillance Bill

Introduced last month, this Government Bill widens the range of offences for which communications can be intercepted, allows electronic applications for search warrants and allows surveillance to be carried out without a warrant in urgent circumstances. The Bill has been referred to the Justice and Electoral committee and submissions close *18 September.*

Code of Employment Practice on Infant Feeding

Before the last election Labour passed the Employment Relations (Breaks, Infant Feeding and Other Matters) Act. This new law requires employers to provide facilities and breaks for employees who wish to breast feed or express milk while at work. The current Government has prepared a Draft Code of Employment Practice on Infant Feeding and is seeking submissions from the public. More information about the law and the Code can be found at www.dol.govt.nz/consultation/infant-feeding/index.asp Submissions close *7 September* and can be emailed to infantfeeding@dol.govt.nz or posted to Infant Feeding (DX SR57080), Department of Labour, PO Box 3705, Wellington 6140.

Reform of Liquor Laws

The Law Commission has released an Issues Paper *Alcohol in our Lives: An Issues Paper on the Reform of New Zealand's Liquor Laws*. The report provides an overview of our drinking habits as a country and the impact that harmful drinking has on, for example, crime, health and injury. Proposals for reform include introducing a completely new Sale of Liquor Act, reducing the hours in which alcohol can be purchased (both from bars and from off-licenses), introducing a split purchase age for alcohol (allowing young people to drink at licensed premises from 18, but not allowed to purchase from an off-licence until they are 20), reducing the availability of cheap alcohol products and expanding the range of conditions that can be imposed on licensees. A copy of the report can be read or downloaded from www.lawcom.govt.nz and submissions close *30 October.*

Report on Public Health System

The Ministerial Review group report on the public health service has been released. The report makes sweeping recommendations to "reduce bureaucracy" & improve frontline health services. Cabinet will consider the recommendations over the next few months and, although a formal submission process has not been established, the Minister has said he welcomes feedback from the public and the health sector. A copy of the report *Meeting the Challenge* can be downloaded from www.beehive.govt.nz

Reported back

Gangs and Organised Crime Bill

The Law and Order committee have reported back on this Bill and recommend that it be passed. This Government Bill increases the penalties for participating in an organised crime group, expands police surveillance powers of gang communications and extends powers to order the removal of "gang fortifications"

Sentencing (Offender Levy) Amendment Bill

The Justice and Electoral committee have reported back on this Bill and recommend that it be passed. This Government Bill imposes a \$50.00 levy on all offenders at the time of sentencing. The fine or levy is in addition to all other fines

and penalties and revenue from the levy will be used to fund new entitlements (such as expenses) and services for victims of serious crime.

Passed

Disputes Tribunal Amendment Bill

Introduced earlier this year this Government Bill was passed on 27 July. Originally announced as part of the Government's small business relief package, the Bill expands the jurisdiction of the Disputes Tribunal allowing it to hear claims of up to \$15,000 (or \$20,000 if both parties agree to have the claim heard in the Tribunal). It is hoped that the increased jurisdiction will also reduce pressure on the District Court.

Land Transport Amendment Bill (No 4)

Originally introduced by the last government in October 2007, but kept as part of the reinstatement motion after the election, this Bill was eventually passed at the end of June. It is essentially in three parts. It creates a new offence of driving when impaired and there is evidence of drugs in the driver's blood and enhances the powers of the Police when dealing with drug-impaired drivers. The Bill also makes changes to the registration and licensing of motor vehicles to allow the public "controlled access" to the register containing the registered owners name and address, and provides greater protection for information held on the register. Lastly, tacked on to the Bill by a Supplementary Order Paper (SOP), the Bill extends the power of local authorities to appoint parking wardens.

News

Unemployment figures

Unemployment figures released by Statistics New Zealand earlier this month make for sobering reading. During the June 2009 quarter the number of people unemployed went up by 20.6% to reach 138,000, making this the largest quarterly rise in unemployment since 1988. The larger than expected rise appeared to be driven by a 15,000 increase in the number of unemployed women. Unsurprisingly, the number of people receiving the unemployment benefit has increased—to nearly 51,000 compared to 18,000 12 months ago. 300 new front-line staff have been appointed to Work and Income to help manage this increase.

Pay Equity Monitoring Framework

The Human Rights Commission is to establish a pay equity monitoring system to ensure the health, education and public sectors deliver pay and employment equity. A recent review of 67 health, education and public sector organisations found that almost every organisation had a gender pay gap that disadvantaged women. More information at www.hrc.co.nz .

New Zealand Federation of Voluntary Welfare Organisations

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