

## Industry Councils: Comments on one aspect of the Jackson Report

Fred Emery, 1976

The Jackson Report attached great importance to the Industrial Councils but did not attempt to give a blue print of how they might be staffed, their reporting channels and their modus operandi.

At the Sun City workshop <sup>1</sup>one of the three syndicates devoted itself to these questions and debated its views in two plenary sessions. This note is one person's perception of what was worked out.

### Staffing of the Councils

We found it easiest to start with identifying what would not be satisfactory. A council made up of Ministerial appointees seemed too likely to be a tool or front for the Department and to be seen as such. An elected body seemed more likely to be independent and to be seen as more truly representative of the various interests in an industry. However, and quite apart from the messy problem of defining the electorates, we had some doubts about how long such bodies would remain 'truly representative'. International experience (Brady, 1944) suggests that very soon the big organizations would push for and win the commanding heights. No doubt they would welcome some continuing token representation of the small organizations and minority interests in order to maintain the facade.

These token representatives are likely to be seen as Uncle Tom's by small business people etc, and encourage their apathy toward, and rejection to the Councils. The behaviour of these token representatives is likely to re-reinforce these trends. They will tend to regard themselves as a cut above their electorate by the mere fact of being elected to such auspicious bodies.

The candidates backed by the big organizations would soon occupy the key roles and probably, because of the patronage, they would act as a Shell representative, a Mobil representative, an AMWU representative or what have you, not as an industry representative. The implied risk is that the business of the Councils would be confined to horse trading and posturing, and much of the real business of the industry would still be conducted by back door lobbying.

We sought very hard for some other way in which the Councils could be manned so that:

- they could command the *respect* of Australian parliaments and the people because of their collective experience, knowledge and representation of the major interests directly involved in the industry;
- they could command the trust of parliaments and the people because they were patently villain-proof.

I personally feel that unless both respect and trust could be ensured the Industrial Councils should *not* be set up. Councils that do not meet these conditions would be a misdirection of resources and a nuisance.

A promising alternative emerged. The principle involved is that which underlies our Anglo Saxon system for selecting juries and which has found other applications both ancient and modern (see next paper). It is the same principle that is used in probability mathematics to draw a random

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<sup>1</sup> Workshop on the human and social aspects of the Jackson Report. Sponsored by Faculty of Commerce, University of WA, Sun City, Yanchep, 15-18 June, 1976.

stratified sample that will represent a large and varied population. In order to get to grips with the practicalities, the syndicate at Sun City set itself the task of formulating guidelines that would help the oil industry set up an Oil Industry Council (three members of the syndicate had a good deal of experience with that particular industry). It seemed that:

- some of the key parties in the industry can be readily identified; e.g, the 9+ oil companies, their employees, unions, service station owners, NRMA and other consumer organizations, local governments in refinery areas, industry and government users;
- representatives of these parties would have the responsibility of drawing up a list of directly interested parties (it was assumed that governmental processes would be responsible for looking after those less directly interested). This list would have to be acceptable to parliament and the people;
- much of the parties would have the responsibility of creating an electoral roll of people in their strata of interests, and providing a publicly defensible explanation of their basis of choice. For very numerous strata, like users of heating oil, the list need not be more than a few hundred;
- posts on the ICs to represent a particular strata are drawn by a random sampling technique, not by nomination and not by voting.

There are problems of details here, but let us first see what flows from the application of the principle.

One negative implication seems apparent - the outstanding individual cannot be selected out for special service and the incompetent passed over. This is inevitable. If selection from the lists is by a genuine random process then the dullest person on the list has the same chances of appointment as the most brilliant. In the systems of appointment and election it is possible that the best would be chosen more often than chance would have it. Possible, but not usual. In appointments, loyalty and such factors are generally of more importance than proven competence. In elections, popularity and strength of backing are critical and neither of these factors favour the tall poppies. For these reasons we were not over impressed by this objection.

On the positive side the 'jury system' appeared to have several things going for it:

- the selected representatives know that they are on the council just because they are on the industry-strata list, A random selection procedure got them there so they have no grounds for self-delusion; they are still 'one of the old network' and can be expected to be treated as such. More than that, they are beholden to no one for their appointment or potential re-appointment. They have no patron; no party debts to pay off. He or she may not be the brightest person in the strata but at least they can participate in the work of the Council without having to follow outside instructions;
- The Council will be more likely to be seen by Parliament and people as being their own selves. Their advice may be judged to be erratic, ill informed etc but there will be less of the suspicion that hidden hands have drafted the advice;
- If such Councils exist to give public advice, then private lobbying channels are likely to dry up. Even if a parliament felt a Council's first advice was incompetent, it would probably feel happier about referring the matter back to the Council with guidelines as to what evidence it needed, rather than turn to lobbying channels that are ipso facto biased sources of information.

With these points in mind, one negative and three potentially positive, let us consider some of the obvious practical problems.

## **Initiatives and Reporting**

Our feeling seemed to be that the Councils should, like statutory bodies, have the privilege of tabling their advisory reports in Parliament. It seemed quite undesirable that they report only to a department, or only to a minister, or to a cabinet. Only in this way did it seem possible that the Councils could avoid the suspicion of going into collusion with department parties or ministers' behind-the-scenes pressure on the legislature. The manner in which a Council arrived at its advice could be kept fairly private, but its advice should be open to public scrutiny in the parliament and the media. The government of the day would determine how the advice was acted on, but only in the knowledge that it was publicly known what advice they had received. If for some reason the Government needs private advice they have many other channels for getting it. We are simply suggesting that if the ICs are used for this purpose it would undermine their role.

It seemed to us desirable that any approved IC, be it regional, sectorial, state or national, should have equal right to table its advisory reports in any Australian Parliament, state or federal. This would require Federal-State agreement, but we did not feel that should be too difficult to achieve. Any parliament could ignore a tabled submission if it so desired. We felt that this was important because some matters that could arise in a regional council could have national significance, some matters of national importance might be particularly significant to several of the states.

We felt also that this was one way in which a network of councils could be established instead of the traditional hierarchies. It seemed to us that it could be only in the national interest if a regional - industry sector council could directly advise at state or federal level without being filtered through a next higher level council which would not necessarily appreciate their concerns.

Within this network of councils we would expect that initiatives could arise at any point. A parliament might refer a request for advice to any council that they thought appropriate. Ditto between councils. Councils might also in some way, query a parliament as to whether it would appreciate advice on some matter. (A thought: it occurs to me in writing the above, that we were in effect trying to turn the councils into creatures of the parliaments, not of departments, ministers, powerful manufacturing enterprises or powerful unions. This bothers me not.)

Reports that are tabled in our parliaments can easily finish up in limbo. Mr Fraser's recent innovation of the back bench committees suggests a way in which at least the major ICs might avoid that fate. Such a back bench committee that assumed a responsibility for an IC would be a fair assurance that parliament, the minister or the cabinet did not walk away from serious, though controversial advice. The press would be a backstop.

## **Resources**

To gain and hold respect, the ICs would have to mobilize resources that enable them to give advice that cannot easily be put down by Government departments or non-government interest groups.

The first question concerns their internal resources: what the council members themselves possess in terms of experience, knowledge and competence. This brings us back to the objection to random selection we outlined earlier. The first answer is just this: if the strata lists are built up on the system of the reference-jury list (see next paper) we can reasonably expect from probability theory, that any dozen will be pretty well as good as any other dozen that will emerge from random selection. To ensure the operation of this mathematical principle we must be prepared for councils of 20-40 members, so that at any one time each of the major stratas of interest has four to six

members. This is still a workable number for the purposes the ICs are expected to achieve. We will discuss this below. Such numbers also allow for the overlap of service, and hence continuity, that we have in our Senate system.

The second question concerns 'owned resources'. We felt that each council should have a staff of resource people to service the council's meeting arrangements, its briefs for its own meetings and its briefs to other bodies. We felt, however, that the staff should:

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Arrangements would have to be made to ensure that satisfactory service on secondment counted for more, in terms of promotion, than a similar length of service in the 'home' organization. Hence that 'field service' would be eagerly sought.

The third question concerns 'accessible resources'. If the ICs are to be discouraged from building up their own staff empires they must have access to capable and publicly creditable sources of research. Our thoughts centred on the Jackson Committee's idea of a Bureau of Manufacturing studies and the Crisp committee's recommendation of an independent Australian statistician. We felt that all approved ICs should have the power to make reasonable demands on such bodies for collection and analysis of data. Beyond this, we felt that the ICs should for most practical purposes be regarded as 'standing Royal Commissions'; i.e., able to receive submissions.

If the ICs develop the standing with Parliament and the people that we expect, then they would not need to be endowed with the legal powers of Royal Commissions. Independent missions of enquiry into an industry would be needed only in the very rare instances where powerful groups in an industry were seen to be subverting an IC.

If a parliament is uneasy about the advice it gets from an IC it is still able to refer to other independent sources; e.g., the IAC.

### **Modus Operandi**

To be representative in the way we envisaged, the ICs would need to be of 20-40 in number. Only thus could we be assured of a reasonable quality of representation for each strata, and be reasonably assured that the representatives had not been seduced by special interests.

This ceiling number of 40 can work effectively, in my experience, at the primary task of identifying common interests, just so long as they do not try to operate via the traditional media of chairs, agendas, motions and voting on motions. To be effective the ICs would need to meet in a more open mode, probably less frequently than the existing Industry Panels, for a couple of days and nights at a time to thoroughly search out the emerging matters of importance in their industry, and frame their advice within the longer term common interests that they can identify. This might mean coming together once every nine to twelve months. It might mean more frequent gatherings if the particular industry is in a state of turmoil.

An IC will probably need an executive committee to carry on its work between its workshops/conferences. Again, to prevent the building in of biases, we felt that the executive committee should be selected by random selection processes, not elected or appointed. Thus each person knows that when their name is on an industry-strata list, they have a social obligation to serve a stretch on council if their number is called, and a further obligation to serve on the steering committee, if so rostered.

It seems unnecessary and undesirable to appoint an independent Chair from outside the industry. Such appointments would create a bias toward formality so that the Chair could exercise its assumed authority.

### **Conclusion**

It was generally agreed in the syndicate that it was not fruitful for them to try and go much further along the lines indicated above. The next useful step seemed like that suggested in the Green Paper (p.221): appoint a working party in a couple of sectors and let them get down to work out concrete proposals suitable for their sector. It seemed to us that a lot of their learning could be carried over to the benefit of other sectors.

### **Reference**

Brady R A 1944, *Business as a System of Power*, University of Columbia Press, NY.