

# Selected highlights of the 1994 Queensland Cabinet Minutes

Dr Anthony S Marinac

**Aboriginal and Torres Strait Islander peoples are warned that this report includes references to people who have passed away.**

## The first order of business: Fitzgerald implementation

While it is true that by 1994 the majority of the work of implementing the Fitzgerald Inquiry reforms was complete, some tasks remained outstanding.

### *Public service Code of Conduct*

The development of a code of conduct for public officials emerged from recommendations made not directly by Fitzgerald himself, but by Fitzgerald institutions the Electoral and Administrative Review Commission (EARC) and the Parliamentary Committee for Electoral and Administrative Review (PCEAR). A code of conduct, the Public Service Code, had initially been introduced in 1988, but it was regarded by EARC and the PCEAR as “deficient in the range of ethics issues covered and the advice provided.”<sup>1</sup> It was also noted that “Not all public officials are covered by codes of conduct and there has been little coordination and training.”<sup>2</sup>

EARC proposed a common code of conduct to be implemented across the entire public service. Cabinet adopted this proposal<sup>3</sup> but agreed that agencies could develop their own individual codes of conduct to supplement a core, common code of conduct. Agencies who did this would receive no additional funding to do so, were not to engage external consultants, and were required to consult with the Public Sector Management Commission (PSMC).

### *Whistleblower protection*

Fitzgerald had recommended protection for public service whistleblowers, along the lines of the US *Whistle Blowers Protection Act 1989*.<sup>4</sup> EARC had produced a report on the issue in 1991<sup>5</sup> and by the end of 1992 the government had agreed to implement a scheme but was unconvinced by the (perhaps unnecessarily complicated) scheme proposed by EARC.

On 21 March 1994 Cabinet considered a proposal<sup>6</sup> to draft a Whistleblowers Bill, which would protect public officials in relation to reporting official misconduct, “negligent or improper management resulting in substantial waste of public resources,” and “substantial danger to public health and safety or the environment.” Importantly, though, the whistleblower would only be protected for disclosures to government agencies: disclosure to the media remained unlawful.

<sup>1</sup> QSA ITM410609, Codes of Conduct for Public Officials (Goss), Book 127 Cabinet decision 03572, 21 March 1994

<sup>2</sup> QSA ITM410609, Codes of Conduct for Public Officials (Goss), Book 127 Cabinet decision 03572, 21 March 1994

<sup>3</sup> QSA ITM410632, Codes of Conduct for Public Officials (Goss), Book 128, Cabinet decision 03595, 5 April 1994

<sup>4</sup> Fitzgerald GE (Tony) *Report of a Commission of Inquiry Pursuant to Orders in Council* (“The Fitzgerald Inquiry Report”), 3.5.7

<sup>5</sup> Electoral and Administrative Review Commission (EARC) *Report on Protection of Whistleblowers*, October 1991

<sup>6</sup> QSA ITM410610, Whistleblowers Protection Bill (Goss), Book 127, Cabinet Decision 03573, 21 March 1994.

The whistleblower would be protected from criminal, civil and disciplinary action, as well as from any other forms of victimisation. As a safeguard against abuse of the system, the whistleblower would be required to demonstrate that they held an *honest and reasonable belief* that the disclosure was a protected disclosure.

The legislation was approved for drafting at the Cabinet meeting of 5 April 1994.<sup>7</sup> Draft legislation was placed before Cabinet on 17 October<sup>8</sup> and introduced to Parliament just two days later. The resulting Act was ultimately replaced by the *Public Interest Disclosure Act 2010*.

### *Racing and betting*

The corruption surrounding horse racing (particularly among illegal bookmakers) was central to the Fitzgerald Inquiry. Fitzgerald had recommended that the CJC undertake further inquiries into how illegal bookmaking might be reformed.<sup>9</sup> The CJC subsequently published an issues paper in 1990 and then a report in 1991<sup>10</sup> which, rather than making outright recommendations, had proposed a series of options for government to consider for the regulation of on-course betting, telephone betting, and for harm minimisation associated with problem gambling.

Consistent with the options outlined in the CJC report, Cabinet approved a proposal for legislation introducing telephone betting in March 1994.<sup>11</sup> Telephone betting had already been introduced in some other states and would be implemented in Queensland via a government-owned and heavily regulated dedicated telephone system. Draft legislation was back before Cabinet on 11 April 1994 and was approved for introduction to the Legislative Assembly.<sup>12</sup>

Later in the year, Racing Minister Bob Gibbs brought before Cabinet a more extensive reform proposal, essentially restructuring the administration of racing in Queensland, and providing for mechanisms such as fines and indemnities to help control illegal bookmaking.<sup>13</sup> The legislation, however, did not pass into law before the government fell.

### *Development of parliamentary committees*

When the Goss government came to power in 1989, the Queensland parliament had only two ongoing Parliamentary committees: a Public Accounts Committee and a Public Works Committee. Both committees had been established in 1988 under the Ahern government, which was desperately trying to reform in order to stave off inevitable electoral carnage.

<sup>14</sup> Fitzgerald, in his report, noted:

*Elsewhere, the effective and efficient operation of Parliament has been enhanced by the setting up of all-party policy and investigatory committees. The committees have become a vital and energetic part of giving effect to the democratic process particularly in respect of complex issues. They serve as Parliament's research arm and as an independent source of information to aid proper Parliamentary debate.*<sup>15</sup>

<sup>7</sup> QSA ITM410633, Whistleblowers Protection Bill (Goss), Book 128, Cabinet Decision 03596, 5 April 1994

<sup>8</sup> QSA ITM411150, Whistleblowers Protection Bill (Goss), Book 154, Cabinet Decision 04113, 17 October 1994.

<sup>9</sup> Fitzgerald Inquiry Report, p. 377

<sup>10</sup> CJC, *Report on SP Bookmaking and Related Criminal Activities in Queensland*, August 1991.

<sup>11</sup> QSA ITM410628, Racing and Betting Amendment Bill 1994 (Gibbs), Book 128, Cabinet Decision 03591, 28 March 1994; see also QSA ITM410515, Racing and Betting Amendment Bills 1994 (Gibbs), Book 122, Cabinet Decision 03478, 7 February 1994

<sup>12</sup> QSA ITM410655 Racing and Betting Amendment Bill 1994 (Telephone Betting, Queensland Principal Club and Racing Industry Advisory Committee) (Gibbs), Book 129, Cabinet Decision 03618, 11 April 1994

<sup>13</sup> QSA ITM411183, Review of the Racing and Betting Act 1980 (Gibbs), Book 156, Cabinet Decision 04156, 31 October 1994

<sup>14</sup> This statement ignores other committees such as the Privileges Committee and Printing Committee, which were purely machinery in nature. The statement is also potentially unfair to Mike Ahern, who in fact had been a long time proponent of a Public Accounts Committee.

<sup>15</sup> Fitzgerald Inquiry Report, 3.1.2

Fitzgerald went on to say:

*There is need to consider introducing a comprehensive system of Parliamentary Committees to enhance the ability of Parliament to monitor the efficiency of government.*<sup>16</sup>

The Parliamentary Criminal Justice Committee (PCJC) and the Parliamentary Committee for Electoral and Administrative Review (PCEAR) were direct recommendations of the Fitzgerald report. However, by 1994 a more enduring and wide-reaching parliamentary committee system was yet to be established.

In 1992 EARC had produced a review of parliamentary committees, which was followed by a PCEAR Report in 1993. The recommendations of these reports were broadly consistent in their intent, however the EARC model proposed a comprehensive system of Standing Committees, while the PCEAR model was focused much more on Estimates Committees and occasional standing committees. Cabinet supported the PCEAR model with minor modifications.<sup>17</sup> It would seem, however, that this decision was pre-ordained given that at the same Cabinet meeting, Terry Mackenroth, presumably in his position as Leader of the House rather than in his ministerial position, presented a submission setting out specific arrangements for portfolio appearances before Estimates Committees.<sup>18</sup>

The following month Goss returned to Cabinet with much greater detail about the procedures to be adopted by parliamentary committees, and the steps to be taken for the protection of parliamentary witnesses. He modelled these on the process used by the most advanced parliamentary committee system in Australia, that of the Australian Senate.<sup>19</sup> This Cabinet decision at least did the Legislative Assembly the courtesy of suggesting that Cabinet's decisions be put to the Assembly as a proposed resolution; but still essentially have an executive government determining the manner in which the Legislature could hold it to account.

The Estimates committees undertook their first round of hearings in connection with the 1994 budget, and in July of 1994 Cabinet undertook a review of their effectiveness. The review was generally positive about the process but identified ways in which departments could better brief ministers for future estimates appearances.<sup>20</sup>

In October, Goss brought to Cabinet a proposal for the drafting of a Queensland Parliamentary Committees Bill<sup>21</sup> which passed into legislation the following year as the *Parliamentary Committees Act 1995*.

## Basil Stafford Centre

The Basil Stafford Centre was a residential care facility for Queenslanders with severe intellectual disabilities. In February 1993 Cabinet was advised that the Criminal Justice Commission (CJC) had been informed of allegations made by parents of clients in care. These allegations would prove truthful and a sequence of serious assaults upon residents of the centre was revealed.

<sup>16</sup> *ibid*

<sup>17</sup> QSA ITM410641, Parliamentary Committees (Goss), Book 128, Cabinet Decision 03604, 5 April 1994

<sup>18</sup> QSA ITM410642, Parliamentary Estimates Committees (Mackenroth), Book 128, Cabinet Decision 03605.

<sup>19</sup> QSA ITM410722, Guidelines for Public Officials Appearing Before Parliamentary Committees and Procedures to be Observed by Assembly Committees for the Protection of Witnesses, Book 132, Cabinet Decision 03685, 9 May 1994.

<sup>20</sup> QSA ITM410925, Evaluation of the Estimates Committee Hearings and Briefings (Goss), Book 143, Cabinet Decision 03888, 18 July 1994.

<sup>21</sup> QSA ITM411148, Queensland Parliamentary Committees Bill 1994 (Goss), Book 154, Cabinet Decision 04111, 17 October 1994, reconsidered as Cabinet Decision 04131, 24 October 1994

In late 1993 the CJC had determined to investigate the centre and appointed former Judge and Royal Commissioner Don Stewart QC to undertake the investigation.

The Inquiry came before Cabinet a number of times in 1994. At the meeting of 7 February 1994, Minister Warner brought forward a request for additional funding for legal representation for the government itself and for government employees. The focus of the Inquiry had expanded from 1990–1993 to include matters from 1985, resulting in the duration of the hearing being extended from four weeks to 12 weeks. Cabinet commissioned the Attorney-General to write to the CJC expressing a concern about the CJC's "propensity ... to generate further public inquiries with Commission of Inquiry powers and broad scope of investigations." The Attorney-General was to express Cabinet's concerns about:

*the need to limit inquiries to specific matters where precise allegations have been made, and to avoid canvassing the policy framework and social context of government administrative processes<sup>22</sup>*

Such a decision, aimed at a Fitzgerald institution, would have been almost unthinkable in the first Goss government.

The following month Cabinet considered a request for funding by a whistleblower from the Basil Stafford Centre who was expected to give evidence before the CJC Inquiry. The whistleblower had a private firm of solicitors and a barrister, and government funding of their bills was sought:

*The correspondence on this matter between this office, the Premier's Department, the Legal Aid Commission and the Attorney-General's Department is beginning to resemble a satire on bureaucratic buck-passing.<sup>23</sup>*

In the end, Cabinet agreed to fund her representation – but only at Legal Aid rates rather than normal commercial rates.

The Inquiry did not report until March 1995, but Cabinet, attempting to get ahead of the issue, considered a plan in October 1994 that would see the centre closed and residents moved into other, smaller facilities by 1998, along with other reforms intended to address the then-likely recommendations of the CJC. Cabinet approved the plan, but at this stage it was not yet funded.<sup>24</sup>

When released, the CJC report was damning in relation to both to individual incidents, and the broader operational culture of the Basil Stafford Centre. However, the change of government in early 1996 intervened, and history shows that Basil Stafford Centre was not closed until 2013.

## Relations between Police and Indigenous Queenslanders

The relationship between Queensland Police and Aboriginal peoples and Torres Strait Islander peoples was in a poor state at the start of 1994. At the end of 1993 Daniel Yock, an 18-year-old Aboriginal dancer from Cherbourg, had been arrested for disorderly conduct after a short chase near Musgrave Park in South Brisbane, and placed in a police van.

<sup>22</sup> QSA ITM410513, Criminal Justice Commission (CJC) Public Hearings – Basil Stafford Centre – Legal Representation (Warner), Book 122, Cabinet Decision 03476, 7 February 1994

<sup>23</sup> QSA ITM410629, Criminal Justice Commission Public Hearings – Basil Stafford Centre – Legal Representation for Ms Kerrie Ann Campbell (Warner), Book 128, Cabinet Decision 03592, 28 March 1994

<sup>24</sup> QSA ITM411010, Proposed Appointments – Queensland Law Reform Commission (Wells), Book 147, Cabinet Decision 03973, 17 October 1994

Upon arrival at South Brisbane police station, he was found deceased. Goss, at the time, accurately stated: "The circumstances of him being arrested at West End, put in the car and shortly later being dead would raise serious questions in the mind of any reasonable person."<sup>25</sup> Indigenous communities responded to the incident with outraged protests and clashes with police in the Roma St Transit Centre, opposite the police headquarters building.

Against this sequence of events, it is interesting that at the Cabinet meeting on 28 February 1994, while the Wyvill Inquiry was investigating Aboriginal deaths in custody in Queensland, Cabinet reviewed and agreed to make public a progress report on the government response to the 1991 Commonwealth Royal Commission into Aboriginal Deaths in Custody. The report made clear the balancing act required of the government on this issue, on the one hand the Aboriginal and Torres Strait Islander Overview Committee made (measured) criticism, referencing Yock:

*Aboriginal and Torres Strait Islander people are still at risk in the custodial environment. This situation is reflected in the most recent death in custody of a young Aboriginal person ...*<sup>26</sup>

On the other hand, the covering Cabinet Briefing Paper warned:

*However, some responses could be used to imply that the Government has adopted a 'soft' approach to both juvenile and adult Aboriginal and Torres Strait Islander offenders.*<sup>27</sup>

Figure 4 in the Summary Report listed deaths in custody since the commencement of the Royal Commission, including Yock's. Of the fourteen deaths, eight occurred in a watchhouse rather than in a prison proper. Of those eight, five had been apprehended for public drunkenness (with no additional or more serious charges). Indeed, one of the recommendations of the Royal Commission had been that "governments should legislate to abolish the offence of public drunkenness."<sup>28</sup>

In November 1992, Cabinet had agreed to the formation of an interdepartmental working group (IWG) to examine this issue, and the IWG reported back to the Cabinet meeting on 9 May 1994. Two options were recommended: retention of the offence of public drunkenness but with greater attention to diversionary strategies; or to extend a legislative sunset clause, allowing the offence to remain in place only until 30 June 1995, while an Interdepartmental Committee (IDC) considered the broader policy implications. There was dissent among the various departments about the best way forward. In the end, Cabinet decided to retain the offence indefinitely, but formed an IDC to report back later in the year.<sup>29</sup>

The IDC reported back on 21 November 1994, and recommended diversionary powers for police to remove intoxicated persons to places where they could receive care.<sup>30</sup> The offence of public drunkenness, however, remained on the books in Queensland until 2005.<sup>31</sup>

<sup>25</sup> Courier Mail, 9 November 1993, p. 1

<sup>26</sup> QSA ITM410570, Progress Report on Implementation in Queensland of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody (Warner), Book 125, Summary Report, page 25, annexed to submission 03407, decision 03533, 28 February 1994.

<sup>27</sup> QSA ITM410570, Progress Report on Implementation in Queensland of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody (Warner), Book 125, Cabinet Briefing Paper, para 7, submission 03407, decision 03533, 28 February 1994.

<sup>28</sup> Royal Commission into Aboriginal Deaths in Custody, 1991, recommendation 79.

<sup>29</sup> QSA ITM410723, Management of Public Intoxication Reform (Hayward), Book 132, Cabinet decision 03686, 9 May 1994.

<sup>30</sup> QSA ITM411267, Policy for Management of Public Drunkenness (Hayward), Book 161, Cabinet decision 04230, 21 November 1994

<sup>31</sup> Summary Offences Act 2005, Schedule 1



## Drought

The year 1994 saw a continuation of El Niño weather conditions which had caused an ongoing drought commencing in 1991. Conditions in Queensland were the worst they had been in decades, resulting in almost complete failure of grain crops in affected areas, and increasing the prices of staples like bread across the entire community. Little surprise, then, that Cabinet dealt with this issue extensively.

At a community Cabinet meeting in Rockhampton on 21 February, Primary Industries Minister Ed Casey circulated to Cabinet an information paper which noted that summer cyclones had brought some relief but were insufficient to break the drought. The result was likely to be a decrease in economic output of \$1.45 billion<sup>32</sup> for the 1994-95 year.<sup>33</sup>

In July, in a further community Cabinet meeting in Mt Isa and weeks ahead of a major announcement of drought assistance by the Keating federal government, Casey returned to Cabinet with an update suggesting that productivity losses since 1991 now stood at \$2 billion for major primary industries, with a total negative impact on the economy of \$3.6 billion.<sup>34</sup> Total government assistance, state and federal, had reached \$75 million. Cabinet agreed to continue to make assistance available to farmers through the existing mechanisms, the Drought Management Co-ordination Committee (DMCC) and the Industry Government Drought Working Group (IGDWG).<sup>35</sup>

Having convened the IGDWG, Casey returned to Cabinet a month later with a range of proposals for drought support. These included not only direct funding, but also the implementation of social support schemes, the preparation of loan programs to enable replanting on the conclusion of the drought, support for small businesses suffering due to the decline of economic activity in regional areas, and support for transport infrastructure in regional areas (although the last of these is only tenuously related to drought, and the Cabinet submission appears to reflect this). The submission was largely supported by Cabinet, but it also reflected a certain helplessness in that many of the most important measures were within Commonwealth rather than state jurisdiction.<sup>36</sup>

On 20 September Cabinet convened in Longreach – the heart of the drought-affected area - and discussion of the drought was the order of the day. Treasurer Keith DeLacy and Industry Minister Jim Elder each recommended an extension of the Business Advice for Rural Areas program to provide advice to small businesses affected by the drought conditions.<sup>37</sup> Education Minister Pat Comben announced measures to support transport of students to school, and tutors where this was not possible.<sup>38</sup> Family Services Minister Anne Warner announced an extension of the Rural Communities Policy Package, funding new rural family support officers.<sup>39</sup>

<sup>32</sup> \$3.14 billion in 2024 dollars.

<sup>33</sup> QSA ITM410558, Information Paper – The Impact of the Severe Drought in Queensland (Casey), Book 124, Cabinet Decision 03521, 21 February 1994

<sup>34</sup> \$4.33 billion and \$7.79 billion respectively in 2024 dollars, assuming a 1994 base in each case and not a 1991 base.

<sup>35</sup> QSA ITM410902, Drought Situation – Update on Current Conditions and Availability of Assistance (Casey), Book 142, Cabinet Decision 03865, 13 July 1994

<sup>36</sup> QSA ITM411041, Proposals Arising from the Industry/Government Drought Working Group (IGDWG) Meeting of 11 August 1994 (Casey), Book 149, Cabinet Decision 04004, 29 August 1994

<sup>37</sup> QSA ITM411110, Small Business Drought Assistance Scheme (De Lacy), Book 152, Cabinet Decision 04073 (De Lacy) and 04071 (Elder), 20 September 1994

<sup>38</sup> QSA ITM411109, Department of Education Drought Initiatives (Comben), Book 152, Cabinet Decision 04072, 20 September 1994

<sup>39</sup> QSA ITM411106, Rural Family Support Package (Warner), Book 152, Cabinet Decision 04069, 20 September 1994

Finally, the \$10 million rural transport (roads) package was brought to Cabinet by Transport Minister David Hamill. Reading between the lines, not even Hamill believed in this package as a genuine drought support measure – merely arguing that the program would support employment in rural areas and “the morale of local communities will be lifted by this assistance package.”<sup>40</sup> While, to some extent, these measures appear to have been window dressing, Cabinet could neither make it rain nor manage the Commonwealth taxation and grants structures which were much more likely to have a substantial impact.

Casey returned to Cabinet in November with a report indicating that a growing number of Queensland communities were without drinking water, with more to follow. Funding was made available to assist these communities to truck in water where necessary.<sup>41</sup> Works including a weir and pumping plant were proposed for the Lockyer Valley.<sup>42</sup>

## Crime

Some aspects of public discussion and debate in 1994 are frighteningly similar to those of 2024. There was substantial reporting in the media of an apparent crime wave; particularly home invasions. On 17 January the *Courier Mail* reported a “spiralling crime rate” having an impact on the cost of insurance in Queensland.<sup>43</sup> The peak, perhaps, came on 3 April, with a front page *Sunday Mail* article headed “Urban Terror: Armed Gangs Invade Homes”.<sup>44</sup>

Cabinet was not directly responsive to the public hysteria. Goss had gone to the 1989 election promising a new criminal code and had appointed a Criminal Code Review Committee (CCRC) headed by Rob O’Regan QC (by 1994 the Chair of the CJC). The CCRC handed down its report in 1992, including a draft new Criminal Code,<sup>45</sup> but by this point the Goss government was transitioning from its early, swashbuckling reformist period into the more cautious and administrative style which characterised its second term. A new Criminal Code was not forthcoming. Instead, the government opted for a more minimalist reform agenda, brought before Cabinet for discussion by Attorney-General Dean Wells in early 1994.

Wells’ report included potential changes to allow a partial defence reducing murder to manslaughter in circumstances of ongoing domestic violence; an expansion of the definition of rape and clarification of the meaning of consent; changes to elements of stealing to make it easier to prove; and the abolition of mandatory life sentences for the most serious crimes.<sup>46</sup>

Wells returned to Cabinet in April seeking agreement to two further, relatively minor issues: the admissibility of the domestic violence history of the deceased in murder cases where a domestic violence defence was being relied on; and a mechanism to allow Magistrates greater say in which matters would be dealt with summarily, and which matters would be dealt with in higher courts.<sup>47</sup>

<sup>40</sup> QSA ITM411107, \$10 Million Drought Roads Maintenance Program (Hamill), Book 152, Cabinet Decision 04070, 20 September 1994

<sup>41</sup> QSA ITM411277, Information Paper – The Impact of the Current Drought on Urban Water Supplies in Queensland (Casey), Book 162, Cabinet Decision 04240, 21 November 1994

<sup>42</sup> Cabinet Decision 04247, 21 November 1994

<sup>43</sup> *Courier Mail*, 17 January 1994, p. 1.

<sup>44</sup> *Sunday Mail*, 3 April 1994, p. 1.

<sup>45</sup> *Final Report of the Criminal Code Review Committee to the Attorney-General, June 1992*

<sup>46</sup> QSA ITM411284, Lockyer Valley Drought Relief (Casey), Book 162, Cabinet Decision 03486, 11 April 1994

<sup>47</sup> QSA ITM411004, Reform of the Criminal Code of Queensland Bill 1994 (Wells), Book 146, Cabinet Decision 03967, 22 August 1994

On the same day, however, Wells presented two other submissions. The first, entitled *Criminal Code of Queensland Bill 1994*,<sup>48</sup> sought authority to prepare a bill for an entirely new criminal code. Extensive drafting instructions, running to hundreds of pages, were provided. The draft proposed to do away with the concept of a misdemeanour, and to divide offences simply into crimes and summary offences. To that end, a third Cabinet submission was tabled on the same day for the drafting of a Summary Offences Act to replace the *Vagrants, Gaming and Other Offences Act 1931*, which really was a relic of an earlier time.<sup>49</sup> Cabinet approved the drafting of the two pieces of legislation. In November Cabinet approved the release of an exposure draft of the draft Criminal Code, with a relatively short consultation period given the significance of the changes.<sup>50</sup> The bill was, in essence, a complete conceptual revision of the original Griffith Criminal Code.

It would have taken significant time for a team of academics to fully appreciate how the revision would have affected the century of authority which had developed after the original Code; this time was simply not given. The legislation was introduced on 24 May 1995 and was passed (but did not commence) before the fall of the Goss government, only to be scrapped by the incoming Borbidge government prior to its commencement.

## Remuneration for judges

In 1994, in addition to their base salary and ostensibly to enable them to undertake learning overseas, judges had an allowance for travel. While no doubt some learning occurred, in reality this was one way to make judicial office attractive without increasing the headline rate of pay for judges. It was, however, grist to the mill for the *Courier Mail*, which in February 1994 began a campaign alleging that judges were overspending public money on these overseas study trips, which were presented by the newspaper essentially as junkets.<sup>51</sup>

In early May a proposal came before Cabinet to roll judicial allowances into judges' overall remuneration packages, meaning those expenditures would not have to be accounted for. This proposal was a direct response to the *Courier Mail* reporting, with the Cabinet Submission saying:

*Recently in the Courier Mail, over a period of some days, considerable exposure was given to the use of jurisprudential expenses by individual judges. While the usage by the judges of the jurisprudential expenses falls within the guidelines laid down by the Salaries and Allowances Tribunal, the inference which the public may have drawn from the reports was that public money is being wasted on overseas trips by judges and their spouses.*<sup>52</sup>

Cabinet considered a legislative amendment which would allow, but not direct, the tribunal to determine an overall salary figure for judges, including amounts that had previously been allowances.<sup>53</sup> This response provided a sound administrative solution which took the heat out of a political problem. It also had the somewhat perverse effect of giving judges additional unaccountable salary, rather than reducing their call on the public purse: perhaps almost the opposite of what the *Courier Mail* intended.

<sup>48</sup> QSA ITM411005, The Criminal Code of Queensland Bill 1994 (Braddy, Wells), Book 147, Cabinet Decision 03968, 22 August 1994

<sup>49</sup> QSA ITM411006, The Summary Offences Bill 1994 (Foley), Book 147, Cabinet Decision 03969, 22 August 1994

<sup>50</sup> QSA ITM411203, Superannuation Legislation Amendment Bill 1994 (De Lacy, Braddy, Wells, Goss), Book 157, Cabinet Decision 04166, 5 December 1994

<sup>51</sup> *Courier Mail*, 26 February 1994, p. 1

<sup>52</sup> QSA ITM410698, Judge's Salaries and Allowances and Pension Entitlements (Wells), Book 131, Cabinet Decision 03661, 3 May 1994

<sup>53</sup> QSA ITM410936, Judicial Legislation Amendment Bill 1994 (Wells, Milliner, Smith), Book 143, Cabinet Decision 03899, 25 July 1994 and 04135, 24 October 1994.



## Corrective Services

In 1994 Corrective Services Minister Paul Braddy had a somewhat fractious relationship with the correctional officers under his leadership, starting the year in dispute with prisons boss Keith Hamburger over proposed redundancies.<sup>54</sup>

In the longer term, however, the sector was clearly growing. In May, Braddy brought an information paper before Cabinet setting out options for the location of a new 400-bed correctional facility either at the existing prison site at Wacol in Brisbane or at Woodford, north of Brisbane, which would be an entirely new site.<sup>55</sup> History shows that the latter option was chosen, and Woodford Correctional Centre opened in 1997. Late in the year Cabinet agreed that the construction of the facility should be put to a competitive tender and open to both public and private sector bids.<sup>56</sup>

Meanwhile, growth in prisoner numbers continued unabated, and in June 1994 it was necessary for Minister Braddy to seek Cabinet approval to “double up” 112 prisoners in existing prisons in order to relieve pressure on police watchhouses.<sup>57</sup> Another option brought before Cabinet was the repurposing of the recently closed Westbrook Youth Detention Centre, near Toowoomba, as a low-security prison, which was approved and became the Darling Downs Correctional Centre until its closure in 2012.<sup>58</sup>

## Sale of Suncorp

Suncorp Bank, previously the State Government Insurance Office (SGIO), was still entirely owned by the Queensland Government in 1994.

On 15 February 1994, Premier Wayne Goss reassured the public that Suncorp was not for sale.<sup>59</sup> This was literally truthful, but entirely misleading to the extent that it suggested an ongoing government commitment to the ownership of Suncorp. Cabinet had already received an oral submission by Treasurer Keith DeLacy, at the Cabinet meeting of 31 January 1994, by which Cabinet agreed that the Premier and the Treasurer should “examine all relevant issues relating to the government’s ongoing ownership of Suncorp and present a submission to Cabinet in due course.”<sup>60</sup>

There was more public speculation in March 1994<sup>61</sup> but the matter was not before Cabinet until June, in a submission attended by an unusual amount of secrecy.

The submission essentially made the argument that Suncorp, in its current condition, was trading in a healthy way, but in order to continue to do so it would be necessary to expand into other markets, most likely by acquiring competitors which were already operating in those markets. This in turn would require a substantial capital injection, which would have to be obtained using either public or private money. Cabinet settled in principle on a corporatisation of Suncorp, with the ability for Suncorp to raise further capital either by issuing shares or selling debt.

<sup>54</sup> Courier Mail, 25 February 1994, p. 3

<sup>55</sup> QSA ITM410741, Information paper – Site Options for a 400 Bed Correctional Facility (Braddy), Book 133, Cabinet Decision 03704, 16 May 1994

<sup>56</sup> QSA ITM411286, Delivery Option for Woodford Correctional Centre (Braddy), Book 162, Cabinet Decision 04249, 21 November 1994

<sup>57</sup> QSA ITM410818, Emergency Accommodation in Correctional Centres (Braddy), Book 138, Cabinet Decision 03781, 20 June 1994

<sup>58</sup> QSA ITM411239, The Acquisition of the Westbrook Youth Detention Centre (WYDC) by the Queensland Corrective Services Commission (QCSC) and its Subsequent Use as an Adult Correctional Centre (Braddy), Book 159, Cabinet Decision 04202, 14 November 1994

<sup>59</sup> Courier Mail, 15 February 1994, p. 2

<sup>60</sup> QSA ITM410504, Suncorp Ownership Issues (De Lacy), Book 121, Cabinet Decision 03467, 31 January 1994

<sup>61</sup> Courier Mail, 22 March 1994, p. 3

However, the proposal was not given full effect. The incoming Borbidge government in 1996 was much more enthusiastic about full privatisation; Suncorp was privatised as part of a complicated set of circumstances which included the takeover of Metway Bank, which was in the midst of a rival bid by New South Wales' St George Bank.

## Land and Native Title

The High Court *Mabo* decision<sup>62</sup> was handed down in mid-1992 and the Commonwealth *Native Title Act* 1993 commenced on 1 January 1994. Consequently, in 1994 the concept of native title and the process for recognising native title was still very much in its infancy. Indigenous groups, the Queensland Government, and the public at large were still digesting the concept of native title and trying to identify how it would work in practice.

Before the legislation was even one month old, Premier Goss was in the media indicating the government's intention to challenge "outrageous and unacceptable" native title claims which, in his view, were having the effect of diminishing investor confidence in Queensland by increasing sovereign risk associated with land.

The claims in question were in many cases similar to a claim which had been struck out in New South Wales in which the Wiradjuri people had claimed a massive area of southern New South Wales, based on an argument of enduring sovereignty (as opposed to mere native title) and disposition on the basis of genocide.<sup>63</sup> The claim was struck out for various reasons, one of them being that the claim encompassed many areas of freehold land. It is not difficult to understand why the Queensland Government would have been concerned about similar claims in Queensland. On 24 January 1994 Premier Goss sought and obtained Cabinet approval to seek an opinion from the Solicitor-General about having similar native title claims in Queensland struck out.<sup>64</sup>

In July Cabinet approved amendments to the *Native Title (Queensland) Act 1993*. Among other things, the amendments were intended to provide certainty to pastoral and mining leaseholders that native title could not be reasserted after it had been extinguished by valid past acts.<sup>65</sup> At that time the granting of a Crown lease was understood to extinguish native title; but one of the claims which Goss sought to have struck out in January was a claim by the Wik people. They argued that leases did not necessarily extinguish native title. That claim was filed in 1994,<sup>66</sup> and was ultimately successful.<sup>67</sup> The government found itself walking a fine line in 1994. On the one hand, there was no suggestion that native title was anything other than an Australian reality; but the government was clearly in damage-control mode, trying to limit what it perceived as potential harm to economic development arising from native title claims.

## Koalas

In the 1960s and 1970s Brisbane was genuinely more like a large country town than a modern city (and proudly so). In the late 1960s Lord Mayor Clem Jones, probably the single person most synonymous with the city, determined that the city should be a motor vehicle city; that every working man should have a house and a car. This led to decisions such as the cessation of the city's tramways network in 1968,

<sup>62</sup> *Mabo v Queensland (No. 2)* (1992) 175 CLR 1

<sup>63</sup> The High Court's disposition of the claim is found in *Coe v Commonwealth* (1993) 118 ALR 193

<sup>64</sup> QSA ITM410493, Striking Out Unsustainable Native Title Actions Against the State of Queensland (Goss), Book 121, Cabinet Decision 03456, 24 January 1994

<sup>65</sup> QSA ITM410905, Native Title (Queensland) Amendment Bill 1994 (Smith), Book 142, Cabinet Decision 03868, 18 July 1994. See also QSA ITM411264, Native Title (Queensland) Amendment Bill 1994 (Smith), Book 161, Cabinet Decision 04227, 14 November 1994, which approved the legislation.

<sup>66</sup> *Courier Mail*, 13 August 1994, p. 1.

<sup>67</sup> *Wik Peoples v Queensland* (1996) 187 CLR 1

and the development of substantial new motor vehicle infrastructure such as the Riverside Expressway (1972), and the South-East Freeway, which by the early 1980s still only stretched as far south as Annerley – barely out of the CBD.

Around the same time the Gold Coast was starting to come into its own as a premier tourist destination. Yet a day trip from Brisbane to the Gold Coast was something of a vehicular adventure, requiring the use of Logan Road to link up with the Pacific Highway around Beenleigh. The South-East Freeway did not connect up with the Pacific Highway until the mid-1980s, but a decade later the road was already periodically being overwhelmed with traffic.

Two options were realistically available: a broadening of the Southeast freeway (which eventually happened, creating the Pacific Motorway), or the creation of an entirely new freeway from Brisbane south towards the Gold Coast.

Around 1991 proposals were first floated for a new eastern transport corridor which would run essentially from the Gateway Arterial Road through an area to the east of Springwood and Daisy Hill, crossing the Logan River and linking up with the Pacific Highway south of Beenleigh. The proposal ran into immediate opposition from locals, who may have been motivated by the wish to protect what was still then a semi-rural lifestyle, but who framed their objection in terms of the protection of sensitive koala habitat in the National Park and State Forest areas nearby. The proposed route, particularly the Daisy Hill State Forest, was a well-known and genuinely beloved park and barbecue area with a flourishing koala population. The proposal was shelved.

By 1994 the transport issues were only getting worse, and one suspects that the government realised that sooner or later a decision would have to be made. Early in 1994, the government had a warning on the koala issue which it chose to ignore. Long-serving Brisbane Lord Mayor Jim Soorley, standing as the incumbent for the first time after taking office in 1991, campaigned in part upon his intention to protect koala habitat.<sup>68</sup>

By mid-year the technical planning of a proposed transport solution was almost ready for Cabinet. Clearly, however, there was a leak. The *Courier Mail* of 25 June 1994 carried an advertisement which in retrospect was the beginning of the end for the Goss government. The advertisement led with a photograph of a koala mother and joey dead on the roadside, with the headline “Don’t Kill Us, Mr Goss.” The text included:

*Two years ago, residents of Rochedale, Burbank and Mount Cotton were promised that the proposed eastern corridor through those suburbs had been rejected on environmental grounds. Today, we understand that this same route is now being considered again.*<sup>69</sup>

Worse was to come. Three days later, protesters delivered the bodies of two roadkill koalas to the steps of the Queensland Government Executive Building. The *Courier Mail* covered it on the front page.<sup>70</sup>

On 20 July, at the instigation of a Special Purpose Cabinet Committee, the government placed a full-page ad in the newspaper making the case that a new eastern corridor was necessary and making the case for the specific route chosen. The advertisement touted a “Koala Coast Protection Plan” including the preservation of koala habitat, special measures to reduce risk to koalas, and additional study into koala populations.<sup>71</sup> This was clearly sufficient for the *Courier Mail*, which came out in favour of the government plan on 24 July<sup>72</sup> but it was insufficient for the local community. On 31 July a protest

<sup>68</sup> See, for instance, *Courier Mail*, 31 January 1994, p.7.

<sup>69</sup> *Courier Mail*, 25 June 1994, p. 8.

<sup>70</sup> *Courier Mail*, 28 June 1994, p. 1.

<sup>71</sup> *Courier Mail*, 20 July 1994, p. 7.

<sup>72</sup> *Sunday Mail*, 24 July 1994, editorial p. 56.

meeting was held in the Daisy Hill State Forest, and numbers exploded. More than 5,000 people attended the protest; so many that police found themselves obliged to close surrounding streets due to the crowd.<sup>73</sup>

The government remained confident that a technical solution to the problem would be sufficient: an engineering solution rather than a political solution. Thus on 15 August two full weeks after the Daisy Hill Forest protest, Cabinet considered a secret submission on what it described as the “Beenleigh Redland Bay Road to Gateway Arterial” route for the South Coast Motorway. The route, which was recommended and ultimately approved, included roads to run through the Daisy Hill State Forest.

The submission dealt with koala impacts extensively, stating:

*Due to its proximity to existing barriers to koala movement (the Pacific Highway and the residential areas of Springwood, Shailer Park etc), [the route] would produce minimal fragmentation of the important habitat areas. Nevertheless, some koala movement across [the route] is likely. The nature of the terrain traversed... will make extensive bridging within Daisy Hill State Forest necessary in any event, thereby facilitating movement of koalas, other fauna and provide for human access to the important recreational areas to the east of the road.*<sup>74</sup>

During the same meeting Environment Minister Molly Robson presented to Cabinet a series of submissions which together comprised the Koala Coast Protection Plan, at a total cost of \$28 million.

The key feature was a proposal to acquire 2,000 hectares of land (roughly double the amount of land which would be lost to the motorway development) as additional protected habitat.<sup>75</sup>

Considering the circumstances from the perspective of 1994, the plan would have seemed reasonable, both from a political perspective and from the perspective of actually protecting the koalas.

Unfortunately, the issue became a running sore for the Goss government in the lead-up to the 1995 election, and when the Borbidge government came to power in 1996 one of its first announcements was that the eastern corridor would be abandoned, and the existing South-East Freeway upgraded to motorway standard.

## Towards the 1995 election

In a sense 1994 was something of an unremarkable year politically. It will not be remembered as one of the landmark years of Queensland politics, nor even of Queensland society generally. There was no election, no Expo, no massive and memorable scandal, and Queensland didn't even win the State of Origin. Instead, the primary purpose of 1994 was to set the scene for 1995. Even in the cricket, the end of 1994 saw a wonderful start for Queensland in the Sheffield Shield, but it was not until 1995 that the state finally claimed the trophy for the first time.

<sup>73</sup> Courier Mail, 1 August 1994, p. 1.

<sup>74</sup> QSA ITM410993, South Coast Motorway Beenleigh-Redland Bay Road to Gateway Arterial (Hamill), Book 146, Cabinet Decision 03956, 15 August 1994.

<sup>75</sup> QSA ITM410995, Koala Coast Protection Plan – Overview (Robson), Book 146, Cabinet decisions 03958; QSA ITM410996, Koala Coast Protection Plan – Preservation, Protection and Rehabilitation of Koala Habitat (Robson, Mackenroth), Book 146, Cabinet Decision 03959; QSA ITM410997, Koala Protection Plan – Research and Information Management (Robson), Book 146, Cabinet Decision 03960; QSA ITM410998, Koala Coast Protection Plan – Minimisation of Koala Deaths and Injuries (Robson, Mackenroth), Book 146, Cabinet Decision 03961; QSA ITM410999, Koala Coast Protection Plan – Community Access to Koalas in the Wild (Robson), Book 146, Cabinet Decision 03962, 15 August 1994.

So, what do we make of 1994? How were the pieces coming together to see a successful, stable, administratively confident Government with a wildly popular Premier fall so quickly and dramatically to electoral loss?

First and foremost, by 1994 the Goss Government was well and truly emerging from the shadow of Fitzgerald. While there were still implementation efforts necessary, the purpose of the Goss Government was no longer to implement the edicts contained in the Fitzgerald report. Moreover, the Fitzgerald institutions of accountability were now beginning to have their effect, which meant that they were focusing accountability upon the incumbent Goss Government. Journalists were learning to use the new freedom of information legislation. Administrative appeals against Government decisions were beginning. The CJC was showing itself unafraid to bite the hand that fed it. From 1989 until 1992, it could feasibly be said that the Goss Government was fighting from a position of almost unassailable moral high ground. They were implementing Fitzgerald, and as long as they did that, no opposition criticism could touch them. Following the 1992 election, that was no longer the case.

It is also reasonable to suggest that the Premier had come to focus far too much on Southeast Queensland, despite the Government's continuing efforts to hold cabinet meetings outside Brisbane. It is probably inevitable that with the fall of the zonal electoral system and the increase in the number of seats in south-east Queensland, political attention would focus on Brisbane and the two large coastal cities to its north and south. However regional communities were feeling a pinch: many of them were facing a generationally severe drought; they were starting to see successful native title claims and unsuccessful but provocative claims; and after a generation of being told that rural communities were the heart of Queensland and the focus of Government, they felt themselves to be an afterthought. Goss, at least, seemed to be somewhat aware of this dynamic, making public overtures early in the year to regions which might feel let down.<sup>76</sup>

At the same time, the fact remained that with the end of the zonal system, country voters genuinely did not have the Parliamentary sway they once had, and while the new accountability mechanisms of state government were focused on the incumbents, they were not turning up major scandals which could be laid at the feet of Goss. He maintained a healthy lead in the polls, both on a two-party preferred basis and in terms of satisfaction with his personal leadership, while Rob Borbidge struggled to make headway. Indeed, during 1994 the Liberals and Nationals were in the news more often for their ongoing inability to agree to a mechanism to avoid three-cornered contests in the forthcoming election, than they were in the news for the actual business of opposition. In the *Courier Mail* of 7 June, journalist Tony Koch wrote an article famously headlined "Mr 12%" highlighting Borbidge's 12% approval rating set against Goss' rating of 71%.<sup>77</sup> A day earlier Bjelke-Petersen, still a hero to many outside Brisbane, made the claim that the opposition could not win the 1995 election under Borbidge.<sup>78</sup> Despite Bjelke-Petersen's odious history, few would have bet against him on this point.

And yet, just a year later, the Goss government came to the brink of crashing down, winning less than 43% of the popular vote, dropping nine seats and holding precisely the number of seats required to remain in government (45). By early 1996, a court-ordered by-election for the Townsville seat of Mundingburra saw the government reduced to even numbers, which led to the government's fall when independent Liz Cunningham from Gladstone indicated that the Borbidge government and not the Goss government had her confidence.

As noted at the outset of this paper, two events in 1994 set up this outcome, the first being koalas. Nobody – one suspects not even the organisers – expected this protest to become a genuine social movement, and one which hit home in outer suburban areas which Labor had likely considered to be an electoral lock.

<sup>76</sup> *Courier Mail*, 21 February 1994, p. 1

<sup>77</sup> *Courier Mail*, 7 June 1994, p. 9.

<sup>78</sup> *Courier Mail*, 6 June 1994, p.2



The second event occurred just a few days after the Mr 12% article but occurred on the other side of the world. Ethnic Hutus in Rwanda went on an appalling genocidal rampage, killing ethnic Tutsis and forcing the United Nations to stand up a peacekeeping task force. The following month, on 23 July, an Australian contribution of troops to that taskforce was announced,<sup>79</sup> with many of the troops to come from Lavarack Barracks in Townsville. Those troops were in Rwanda on election day in 1995, and the aircraft returning their votes to Australia arrived too late for them to be counted.

On election day, the seat of Mundingburra, which takes in Lavarack Barracks, went down to the wire. After the distribution of preferences Labor incumbent Ken Davies had 9,308 votes, and Liberal challenger Frank Tanti had 9,292 – just sixteen votes separating them. The opposition mounted a case in the Supreme Court, sitting as the Court of Disputed Returns, which found 22 votes of serving personnel in Rwanda that should have been counted, but were not. The court also found eleven declaration votes that should have been counted but were not; that six people had been improperly denied their vote; and that seven votes had been invalidly cast.<sup>80</sup>

In all, these numbers, though objectively minuscule, were enough to overturn Davies' wafer-thin majority and his election was declared invalid. Labor dumped Davies for the by-election, replacing him with a popular local Mayor, Tony Mooney; but this was not enough. Given the opportunity to bring about the fall of the government, Mundingburra residents did just that. Tanti triumphed, and Borbidge came to power. 1994, then, was not the year of the checkmate; it was the year when pieces were moved on the board – moves which were innocuous at the time but which later combined to change the course of Queensland politics.

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<sup>79</sup> Courier Mail, 23 July 1994, p. 1.

<sup>80</sup> Tanti v Davies (No 3) QSC 298, 8 December 1995, Ambrose J.