

Left-leaning Vanstone starting to emulate a certain former Liberal prime minister

The former minister's column read like a rant in the Green Weekly

GERARD HENDERSON



Media column and presents the (low-rating) *Counterpoint* program on air. Her presence in print and on ABC can be used to demonstrate a "balance" in Fairfax Media and the ABC respectively when none, in fact, exists.

The ABC and Fairfax Media tend to criticise both the Coalition and Labor from the left. Liberal Party types who bag the likes of Tony Abbott or his predecessor John Howard from a left-liberal perspective are particularly welcome at both organisations.

This helps explain why former Howard government minister Amanda Vanstone has a Fairfax

column. It is not surprising that the Prime Minister had put himself "at the helm of a ship that throws the Westminster system of cabinet government out of the window". Expressing her "dis-may", she went on to assert that Abbott "believes in democracy but only if he can have his way".

It read like a leftist rant in *The Saturday Paper*, perhaps even the *Green Left Weekly*. The article did not improve when, towards the end, Vanstone claimed: "Cutting down our democratic protections to get at the enemy is profoundly dumb — we end up doing the enemy's work for them, and from within".

Here's a news flash (without an exclamation mark). The so-called Islamic State, or ISIS, or ISIL, or Daesh, is intent on establishing a caliphate run by Sunni Islamists throughout the world. Contrary to Vanstone's opinion, there is no evidence that the leaders of Daesh have a cunning plan to reduce the

democratic protections that prevail within democracies. Rather, they want to destroy democracies and autocracies alike and establish a theocracy.

There is a genuine debate in Australia and elsewhere as to how to handle the Islamic State threat, at home and abroad. This extends all the way to the Abbott cabinet as was evident in leaks about the discussion among senior members of the Abbott government (the Prime Minister himself, Julie Bishop, Kevin Andrews, George Brandis, Peter Dutton, Barnaby Joyce, Christopher Pyne, Malcolm Turnbull) about the implications of terrorism on Australia's citizenship laws.

As the Australian government's discussion paper "Australian Citizenship — your right, your responsibility" makes clear, the Abbott government "intends to modernise the Australian Citizenship Act to enable the Minister for Immigration and Border Protection to take action in the national interest to revoke the Australian citizenship of dual citizens who en-

There comes a time when democratic rights have to yield to national security

gaged in terrorism that betrays their allegiance to Australia".

There appears to be a broad consensus among Coalition and Labor parliamentarians in support of the proposal that Australian dual citizens who fight with IS should have their citizenship revoked. This would extend the 1948 legislation which entails that dual citizens who fight with a country at war with Australia will lose their Australian citizenship.

The dispute on citizenship turns on the issue of whether the Minister for Immigration should be able, in the words of the discussion paper, "to revoke Australian citizenship where there are reasonable grounds to believe the person is able to become a national of another country under their laws and would not be made stateless".

This is a dramatic proposal and

it is appropriate that it be the subject of a wide ranging debate, to be led by former attorney-general and former immigration minister Philip Ruddock. It's not surprising the cabinet is divided. Within the Liberal Party this proposal is opposed by some small "F" liberals like Malcolm Turnbull along with some big "C" conservatives like Cory Bernardi. Labor's position is uncertain.

According to Vanstone, Abbott's support for the proposition that Australia should be able to revoke citizenship where a person is able to become a national of another country is both profoundly dumb and anti-democratic.

Yet if Vanstone is correct about Abbott, then her analysis should also apply to Britain's prime minister David Cameron. Cameron comes from the small "T" liberal wing of the Conservative Party. In other words, on many issues Cameron and Vanstone would hold similar views.

The fact is that the Cameron government has already enacted much tougher rules on citizenship

than those which have been proposed in Australia. In Britain, the Home Secretary can deprive British citizens of their citizenship even if they are rendered stateless.

In other words, the British legislation covers both dual nationals and those who may be able to become a national of another country.

On Vanstone's analysis, Cameron should be regarded as both anti-democratic and profoundly dumb. Yet he led the Tories to big victory in the British general election last month. The combined vote of the Conservatives and the right-of-centre United Kingdom Independence Party indicated substantial support in Britain for a hard line on national security, including citizenship rights.

There is reason to believe that a similar attitude is present in Australia. According to the Essential Poll, 81 per cent of Australians approve of the proposal that dual national citizens who engage in terrorism should be deprived of their citizenship.

Moreover, 73 per cent support

such an act if a person is eligible to become a citizen of another country. Vanstone's line is similar to that of the late Malcolm Fraser who, in the latter years of his life as a critic of Abbott and Howard, used to proclaim the focus on civil liberties by Liberal Party founder Robert Menzies (1894-1978).

Yet Menzies helped the Communist Party of Australia (CPA) in the early years of World War II and attempted to do so again in the early 1950s. The first time around, the CPA supported the Nazi-Soviet Pact. On the second occasion, Australia was at war with the communist regime in North Korea.

There comes a time when democratic rights have to yield to national security considerations. Vanstone understood this during her time as a Howard government minister. Age columnists and ABC broadcasters do not have such serious responsibilities.

Gerard Henderson is executive director of The Sydney Institute. His Media Watch Dog blog can be found at theaustralian.com.au

Sensible pathway to practical recognition

There is a promising alternative to Warren Mundine's vision for purely symbolic change

DAMIEN FREEMAN



focus for national unity. It would give expression to the nation's aspirations for the future and for the shared values through which we hope to realise that future. And it would do all of this without introducing any uncertainty into the Constitution.

Indigenous leaders have a choice to make. They can align themselves with Warren Mundine's vision for purely symbolic constitutional change, or they can keep faith with calls for practical recognition that makes a difference to indigenous lives.

In respect of practical recognition, there are two options: insert a racial non-discrimination clause and a symbolic preamble in the Constitution, or insert an indigenous advisory body in the Constitution and adopt a declaration of recognition introducing legal change.

The first option risks introducing legal uncertainty and undermining the sovereignty of parliament. Introducing symbolic language is likely to have unintended and unpopular consequences in the High Court's interpretation of the Constitution.

Inserting a racial non-discrimination clause would unacceptably alter the balance between the High Court and parliament. The latter is elected by the people and is accountable to them, so it, rather than unelected judges, should make the difficult political decisions about what is in the best interests of indigenous people and the nation.

The second option, however, may just make recognition work for all Australians. A declaration of recognition would, poetically and powerfully, recognise the historical experience and enduring place of indigenous people in the life of the nation. It would establish an indigenous advisory body that would ensure legislators would never again be able to decide what they think is best for indigenous people without consulting them.

With appropriate refinement, Tomes's proposal presents us with the only option for substantive constitutional recognition that will not introduce uncertainty into the Constitution; will not undermine the sovereignty of parliament; and will not leave us with a one-clause bill of rights.

It will uphold the Constitution in all these ways. The proposed package would unify the nation through a statement of our shared values; codify existing constitutional practice while removing racist language; and ensure indigenous people are commission in parliament. Unity, codification, and consultation can only strengthen the life of our nation as we celebrate the 50th anniversary of the 1967 referendum.

If indigenous leaders want to mark the anniversary through symbolic recognition alone, then they should really heed Mundine.

Finally, recognition would provide for indigenous consultation in the making of laws that affect indigenous people.

Indigenous people are the only people for whom parliament makes specific laws. It needs to be able to make such laws in order to protect indigenous heritage sites and to regulate native title law. A specific power is necessary.

It is right that people should be consulted when parliament makes laws that affect them. It is only through the requirement that stipulates that parliament must consult indigenous people when it makes such laws.

The missing piece in the puzzle has been a means of balancing the requirement for parliament to consult indigenous people with the need to preserve the sovereignty of the federal legislature.

Frank Brennan, a priest and member of the Australian Catholic University, was convinced that it is impossible to solve this problem. However, with her draft of a new section 60A of the Constitution, Anne Twomey proposes a solution. The University of Sydney professor has pointed us in the direction of the missing piece of the recognition puzzle.

So indigenous leaders who support practical recognition, as well as symbolic recognition, have a choice.

Do they ask Australians to choose the uncertain path of judicial review of legislative acts and symbolic constitutional statements? Or do they ask Australians to choose the political and procedural path, by guaranteeing indigenous people a voice within the political processes governing their affairs?

In my view, there is only one viable option.

With appropriate refinement, Tomes's proposal presents us with the only option for substantive constitutional recognition that will not introduce uncertainty into the Constitution; will not undermine the sovereignty of parliament; and will not leave us with a one-clause bill of rights.

It will uphold the Constitution in all these ways. The proposed package would unify the nation through a statement of our shared values; codify existing constitutional practice while removing racist language; and ensure indigenous people are commission in parliament. Unity, codification, and consultation can only strengthen the life of our nation as we celebrate the 50th anniversary of the 1967 referendum.

Damien Freeman lectures on ethics and aesthetics at Pembroke College, Cambridge.

Shorten's short-termism starts to bite

Labor's leader is losing touch, but not with unions

CHRIS KENNY
ASSOCIATE EDITOR



Evasiveness, hollowness and the developing AWU scandal are pressure points building around Bill Shorten's leadership

Columnists can sometimes be like the Forz in *Happy Days*. We can find it difficult to admit when we get something wrong... ghhrrr, got something wr... ghhrrr.

Let me start again. I got something wrong about the carbon tax. Back in October 2013, not long after Bill Shorten won the Labor leadership, I predicted he would allow the Abbott government to repeal the carbon tax.

After years of contortions on climate policy, when Labor twice did the opposite to what it promised on the issue, I reasoned there was a political imperative for Shorten to clear the decks and undertake reform to reduce union power in the ALP.

The opposition has done none of these things. Shorten has adopted an obstructionist, short-term strategy aimed at ensuring that Abbott's is a one-term government. He has been emboldened by the government's missteps, the amount of legislation he has been able to block and opinion polls.

Now, just beyond the mid-point of the term, the shallowness of Shorten's strategy is being laid bare and other pressure points are building around his leadership.

Given his crucial role in the

knifing of both Rudd and Julia Gillard, it might be a frustrating irony for caucus that Shorten's leadership is buttressed by new rules that the returned Rudd insisted upon to stymie future descents into premature killing seasons.

Shorten's opinion poll ratings have dropped rapidly as his policy incoherence has become more apparent and the government has backed away from its most unpopular policies. The public has started to realise that Shorten is like Chauncey Gardner in *Being There*, mouthing mainly meaningless platitudes into which too many have read too much.

The Abbott government has made mistakes enough to be in real strife. But it is helped by an opposition leaving crucial questions open for negative interpretation:

Will Labor stop boat turnbacks and give a green light to people-smugglers? Will it spend more and blow out the deficit or increase taxes, or do both? Will it increase power costs by pricing carbon?

These are critical questions for the next election and all we get from the Opposition Leader is waffling. So even while the government struggles to construct an economic narrative and keep signs of disunity at bay, the clouds over Shorten will be a dominant narrative over coming months.

This has been exacerbated by the revelations about the Australian Workers' Union at the trade union royal commission.

The union Shorten ran still provides his perch and he has been involved in deals selling out workers' conditions in favour of

peace for employers and cash and political clout for the union.

Shorten looks weak as he evades questions about his involvement in deals where companies made payments directly to the AWU.

"Well again, we're going to matters which will be dealt with or part of evidence in the royal commission," he told a press conference on Thursday. "I have said I'm not going to give a running commentary. But today's story was unfair so that's why I'm making the point again and I'm happy to, that we and the labour movement and I as Labor leader and when I was working in the union every day are committed to improving the conditions of working people."

This saga will get uglier for Shorten before it improves, and

the potential on the downside is obvious. It unfolds as the party prepares for its national conference next month at which Shorten should be taking on the unions.

And the Victorian ALP is about to consider a move to expel former ACTU boss and federal minister Martin Ferguson in a case that could turn into a public battle for the heart and soul of the party.

Kicking Ferguson out of the party would be seen by some as a rebranding of the Hawke-Keating legacy that sees economic modernisation and growth as the way to meet the aspirations of workers. As Keating might say, a Ferguson expulsion would signal the party had surrendered to the 'pre-Copernicus astronomical'.

One of the many telling moments in the first episode of the ABC's *The Killing Season* was the reference to Shorten being left out of Rudd's ministry. The AWU's recruit, instead, was made parliamentary secretary for disabilities — an impressive appointment for someone just elected. But David Eccles, told Sarah Ferguson this was a mistake.

"The prime minister thought he was marginalising Bill Shorten by putting him in the disabilities portfolio," Epstein said. "That was a really poor approach to take, why alienate someone who you think is a potential political threat?"

That such a sense of entitlement could exist for a union boss yet to sit on the green leather is extraordinary enough, yet we are told that resentment eventually helped kick off a PM who had led Labor out of opposition.

When Gillard took down the non-aligned Rudd in 2010, with the help of Shorten, the AWU's Paul Howes and other factional players, the unions reclaimed the parliamentary party.

They still have it.

Fallout from the AWU's 'deal-making' scandal could land at Bill's feet

People don't like it when ordinary workers have their rights stomped all over by their 'allies'

GRACE COLLIER



enterprise agreement. Under this EBA, with Cleanaway Australia, workers are said to have collectively lost about \$2 million a year in wages. The deal forfeits the right of employees to bargain for better wages or take industrial action. At the same time, the AWU received cash payments from the company.

This week, the Prime Minister raised concerns about the AWU's "business model", correctly pointing out that Opposition Leader Bill Shorten cannot "stonewall" on questions about wage-cutting sweetheart deals done in his time as AWU leader. So might Bill Shorten have serious questions to address? Before answering that we should examine whether and why unions do deals with employers that tip off workers. To do this, we must turn to the US because this is where many Australian unions get their ideas, techniques and training.

A 2014 report by the US Chamber of Commerce: "Labor's Minimum Wage Exemption: Unions as the Low Cost Option" (available online for free), provides illuminating reading. Some unions, who cannot get members and need to survive, have developed a new business model: they have become providers of cut-price

shoulder increased labour costs or seek to make an accommodation with a union."

Employers are asked to sign side deals preventing them ever working in the union, allowing the union access to property and waiving the employees' legal rights to vote for or against union coverage in a secret ballot. The report says these deals raise "serious questions about why these minimum wage laws are actually intended to benefit".

In Australia, there are unions that have had, for decades, terrible

advised to complete a full audit of the AWU. The AWU likes to say it is paid for "training", but businesses don't need union officials to "train" them in anything, so we can disregard that ridiculous proposition.

It is not illegal for employers to just give money to unions, or even to pay the dues of union members, but it is reasonable to ask why this would happen. Already some employees have said to the royal commission they were joined up to the AWU without their agreement or knowledge. An employer has also confessed he put all his workers into the AWU because it was the best way of keeping other unions out of his workplace.

Should employers be allowed to just put their workers into unions and how many more examples like this might there be?

Businesses don't sign their employees into unions, give unions lists of their workers' names or give unions money without good commercial reasons, and the workers, as well as the wider public, deserve to know what those reasons are. Further, we need to legislate against all financial transactions between companies and unions. Some might think these transactions are no one's business but that of the parties involved. However, the AWU is probably the most powerful union within the Labor Party. If its influence is built on more than the deals that hurt working people, then don't we all deserve to know? This week, Shorten dumped

Medlem like a hot potato. He denied doing deals that leave workers worse off. He has also said that he stands on his past record, a statement that sends an "I dare you" message to his enemies.

Unfortunately for Shorten, his enemies might take up the dare, and this scandal could widen.

The Coalition is likely to do more digging and ask more questions in parliament. Some inside the union movement and the ALP might assist the royal commission or leak to the media. Proof of past scuttled about the AWU has finally arrived and internal retribution could come quite quickly.

Whatever the future holds for Shorten, this week it feels like a dam has broken. The media and the public are starting to look very closely at the union's business model. My feeling is that while the activities don't appear prohibited in law, they probably won't pass the sniff test. When ordinary workers are robbed of wages and their rights stomped on, people don't like it. This could be Labor's very own Work Choices moment.

Past leaders of the AWU, like Howes and Shorten, no matter how visible they are, cannot spite their close friendships with business types. Liberal powerbrokers and media moguls, cannot run away from their record. Because the rules of the AWU say that the boss can't sue the deals, if the deals are revealed to be smelly, the stench will lie at the bosses' feet.