

RESTORING GOOD GOVERNANCE

Address by Barry O'Farrell MP, NSW Leader of the Opposition
Speech to the Sydney Institute, 12 March 2009
at the NSW State Parliament House Theatre

Let me start by thanking Dr Gerard Henderson for the opportunity to again address The Sydney Institute.

I strongly believe that ideas are the lifeblood of a strong and healthy democracy and essential in the delivery of good government.

By fostering and encouraging public debate, The Sydney Institute makes an invaluable contribution to all tiers of government in Australia.

Tonight I have gone out on a limb by choosing to speak about one of the driest areas of public life – the importance of good governance.

But before you collectively sigh and text loved ones to remind them to record tonight's episode of *Grey's Anatomy*, let me emphasise why I place such importance on this issue.

Good governance is the foundation and the prerequisite of good government.

And the imperative to rebuild good governance has never been as strong in this State as it is right now in NSW.

When you examine the many problems that currently afflict NSW – whether the crisis in the health system, the congestion on our roads or the collapse of our budget – too many stem from a fundamental breakdown in our system of governance.

A lack of transparency, accountability and honesty in the way in which government is administered in this State.

As a result, the divide between politicians and the community in NSW has never been greater.

Never has the community's faith in elected representatives been lower.

Never have people been so disengaged and alienated from what goes on in this building.

It is essential to restore public confidence in the public institution that is government and Parliament.

Without that trust, it will be near impossible for government – any government – to do the necessary reform needed to right the many wrongs in NSW.

We cannot unshackle NSW and we realise our opportunities as a society without public trust – and first and foremost that means getting the business of government right.

At the outset, let me put on record my surprise that the business community has not been more vocal in expressing its concerns at this Government's approach to governance.

Of course, Labor has shown no such reticent in sharing its views of governance in the corporate sector.

The Prime Minister's recent opus in the Monthly Magazine laments a system that, he says, led to 'greed of epic proportions.'

No one would, or should, condone corporate greed. But is greed for money a worse sin than the greed for power we have witnessed in this State?

Unquestionably, an organisation or an individual that fails to disclose information for some monetary gain should not be tolerated.

But equally a politician or government that intentionally misleads or withholds information, with the sole view of obtaining or retaining power, shouldn't be tolerated either.

In recent years there hasn't been nearly enough public scrutiny

- of the ways in which governments bend the truth to suit their own political advantage; or
- on the rise of a political culture that puts the retention of power ahead of public interest.

Activities that beggars reflection on those famous words of Lord Acton: "*Power tends to corrupt and absolute power corrupts absolutely.*"

My simple message tonight is that good governance leads to good government.

I am determined to ensure that a change of government in 2011 will be far more than a change of faces.

Our Liberal/Nationals Government will be committed to ushering in a new era and a new ethic of new governance arrangements.

They will be based on three central pillars:

Firstly, transparency and adherence to the doctrine of open government.

This is because we believe it is the best way to drive better performance and greater efficiency in public administration.

Secondly, accountability because transparency is only effective when matched with enforcement.

We need to ensure there is a mechanism to reward top performance and remedy under performance.

And thirdly, and most importantly, honesty.

People often remind me that the task the Liberal/Nationals will face when we are successful in 2011 will be huge.

We are likely to be left with a broken budget, substandard infrastructure, and basic services such as health and transport in crisis.

But it won't be fixed without public trust. The community needs to know that our actions will be about putting them back at the centre of public administration again.

A recent community survey on which professions the public trusted the most revealed what's obvious to the community but is often difficult for people in this place to acknowledge or accept.

Of thirty professions – including not only car salesmen but psychics – politicians finished dead last. Even behind our friends in the media – but only just.

We need to convince the electorate of NSW that this building and all it entails doesn't exist to serve special interests, party apparatchiks or even the elected Members who fill its chambers.

We need to ensure that Parliament does truly belong to them and that the work of government puts public interest first.

Transparency

I want to start by expanding on the notion of transparency.

Those here who have worked in both the public and private sectors understand they are fundamentally different.

The private sector relies on market forces to drive efficient and effective outcomes.

It relies on the common benchmark of financial performance to allow customers and investors to evaluate companies.

The administration of government is different.

Generally, governments operate in areas or "markets" that provide public good or deliver social objectives.

In the absence of a clear profit driven bottom line, the question then becomes how does government drive better performance in the delivery of services to families and business?

A key part of the answer lies in transparency – providing taxpayers with the tools to see through the activities of government and accurately evaluate its performance.

Putting constraints on the type of politicisation of public administration that has contributed to so many problems across the State.

We tend to assume that the combination of advances in technology and media scrutiny would lead to an increase in transparency of government.

But that isn't the case in NSW. Our State Government has actively wound back its openness and transparency.

So for instance, in recent years Budget papers have been reformatted with large tracts of information removed, making it harder for anyone to accurately assess program performance.

Or, there is the continued resistance to allowing patients and others access to data, such as hospital infection rates, which would permit them to assess our system against those interstate or overseas.

But it's in the area of Freedom of Information that Labor has become increasingly creative in its refusal to release information.

Recently one of our FOI applications was rejected not on the grounds it was Cabinet-in-confidence, but because in the future it might become Cabinet-in-confidence.

Little wonder then that the NSW Ombudsman found "there has been a significant and disturbing downward trend" in FOI compliance in NSW with nearly 50% of requests either partially or fully refused.

And poor response to FOI applications is but one part of the overall 'culture of concealment' that's developed under Labor.

It's the type of behaviour students of politics might expect from fragile democracies in other parts of the world, but not from Australia's oldest seat of government.

Yet Labor's decision to cloud its administration's operation has been to its own detriment.

In the short term it allows them to paper over the cracks in the system and avoid scrutiny, however in the long term it hides failures in government not just from the public but also from themselves.

The first step in fixing problems is candidly acknowledging them in the first place – and greater, not less, transparency is critical.

The Liberal/Nationals have already released substantial policy in this area demonstrating how we would operate in government differently from those already there.

As the heirs of those parties who introduced Freedom of Information to this jurisdiction we are committed to a complete overhaul of the Act with the aspirational goal of making the very need for FOI virtually redundant.

This means adopting the guiding principle that government should pro-actively disclose and make available information to the public as a matter of course and culture.

The onus needs to be reversed if we are to make FOI the community's democratic right of last resort – not their only way to access information that's in their interest.

We have committed ourselves to appointing an Open Government Commissioner to make sure agencies operate in line with this principle.

We have also committed to a lobbyists' register that captures all individuals seeking to influence the outcomes of government. And I emphasise the word "all".

Labor's belated actions on this front, flattering though its 'mee-too-ism' is, only extends to professional lobbyists.

It ignores others – whether former Ministers/MPs or unions and industry associations – whose dealings with government should equally be subject to full public scrutiny.

We have also committed to strengthening the role of ICAC, another of the critical institutions delivered to this State by the Liberal/Nationals.

We are determined to end Labor's Pontius Pilate approach to allegations of corruption.

While the ICAC Act requires senior public servants as a matter of obligation to report allegations of corruption to the Commission, the same obligation doesn't apply to Ministers.

After I introduced a Private Members Bill last year to extend that obligation to Ministers, the Rees Government acted.

It's claimed its amendments, passed in December last year, would achieve the same objective. It made these claims despite my strenuous objection during debate at that time.

Three months on I was – regrettably – vindicated.

An issue surrounding political donations to a Minister and allegations of improper lobbying was again at the centre of media attention.

The Minister concerned publicly and prominently promised to report the matter to ICAC. Two days later ICAC took the unprecedented step of publicly stating the letter received from the Minister did not constitute a referral of alleged corruption.

But instead of insisting the Minister do the right thing and abide by the claims made when the ICAC Act was amended in December, Nathan Rees defended her incompetence and said the Government wouldn't refer the matter.

All the public is left with in the end is the allegation of corruption – and no process in place to assure them that their elected official has acted correctly or corruptly.

In government we will reintroduce legislation to prevent such malfeasance in future, and take other measures to restore ICAC's standing.

I couldn't disagree more with those who like to argue that the creation of ICAC was Nick Greiner's greatest mistake.

The public need a strong anti-corruption watchdog they can trust to proactively work to prevent corruption and to fearlessly expose corruption whenever and wherever it occurs.

We also committed to strengthening whistleblower legislation.

Just yesterday Gillian Sneddon, the former electorate officer who bravely blew the whistle on Milton Orkopoulos, protested her plight outside this building. She has been hung out to dry by her former Labor employers – all for simply telling the truth about despicable actions.

The Liberal/Nationals will overhaul the State's whistleblower laws in the wake of the treatment of Gillian Sneddon – and others – who risked all for one ambition alone, and that is the public good.

Those making protected disclosures about official wrongdoing should be supported, valued and protected.

As part of our approach:

We will establish a separate Public Interest Disclosure Unit within the Ombudsman's Office to assist those wanting to blow the whistle on corrupt conduct - as recommended by three separate Parliamentary reviews since 1994, but not enacted.

We will introduce standard guidelines across NSW government agencies on the investigation, handling and reporting of protected disclosures – as they simply don't exist right now.

We will introduce the right for whistleblowers to seek damages when they have suffered detrimental action in reprisal for making a protected disclosure – as NSW is the only State without such a right.

Whistleblowers are community heroes. They risk their livelihood for no reward other than the knowledge they have done the right thing. The least we can do is protect them.

The initiatives I have outlined are all designed to improve the performance of government by increasing the level and quality of information in the public domain and protecting those who provide it.

However, accessibility of information is but one part of the argument. What's done with the information – how it's put to use – is equally critical

Accountability

That is why the second pillar of our approach to good governance is accountability.

There is no point in providing information and measuring performance if top performance is not rewarded and under performance is not resolved.

Departments, agencies, authorities and individuals need to be held to account for their actions.

Labor's failure on this front is so self-evident it barely warrants discussion.

Minister after Minister has been promoted despite the legacies of their past mistakes.

For example, Eric Roozendaal and Joe Tripodi - two names that are synonymous with scandals such as Orange Grove, the Cross City Tunnel and Labor's 'donations for decisions' culture – are promoted, not demoted.

NSW Labor defies Galileo's theory of gravitation: they always fail upwards!

If we are to fix this State's problems, we need to put an end to this and restore ministerial accountability to government in NSW.

Nowhere is that more important than in managing the State's economy.

It's why, when we released our economic framework for the State *Planning for Prosperity*, we committed ourselves to ensuring that all Cabinet Ministers will be accountable for fiscal direction and infrastructure delivery.

This accountability is needed to end the charade of Nathan Rees, upon becoming Premier, pretending to be ignorant of the state of NSW finances despite having sat at the Cabinet table for the preceding eighteen months.

It wouldn't be an acceptable defence from a director of a collapsed corporation, and it won't be a defence under the next Liberal/Nationals Government.

Unlike our opponents, we understand the privilege of being elected to government comes with responsibility and that it is incumbent on Ministers to bear responsibility for the decisions Cabinet takes.

It's why the Liberal/Nationals will overhaul the Cabinet-reporting framework for all major infrastructure and service commitments to allow for:

- independent verification of costings;
- clear statements on the costing impact on forward budgets; and,
- quarterly progress briefings on time and costing variations.

Put simply there will be no defence of ignorance for Ministers under the next Coalition Cabinet.

The other key aspect to consider in this discussion is the accountability government owes to the electorate.

When fixed four-year terms were proposed by the balance-of-power Independents in 1991, they believed the reform would end community frustration with early elections and provide certainty for government to act upon.

They were good reasons then and remain so today. It's why I continue to support fixed four-year terms.

However, at that time no one envisaged how a Labor machine could, and would, manipulate the fixed term system to protect maladministration, political inertia and incompetence.

With a one-seat majority in 1995, Labor fully embraced the fixed four-year term. But during it's second and third terms, Labor set about thwarting its intent.

It perfected the practice of only applying effort to the community's concerns in the last year of the cycle – the period it cynically calculated when voters would start to focus on government performance.

For instance in the lead up to the 2003 State election it – finally – directed additional funding to surgery in our hospitals. It reduced the 'long waits' – that is people waiting more than 12 months for surgery – almost completely. But as soon as the election was won, the tap was turned off and long waits started to rise again.

For its own benefit, not the public interest, Labor delays economic and social benefits to the community until it suits their campaign purposes.

Labor's manipulation of the system raises the question of reform for the State's fixed four-year parliamentary terms. How do we ensure that a government works for 208 weeks of a term, and not just 52?

One option my colleagues and I have considered is the concept of recall.

The spectre of being forced to an election by the community could, I believe, provide the stimulus needed for government – even a NSW Labor Government – to perform throughout its term, as well as provide the public with a safeguard against political abuses.

A number of the US states have recall provisions and the mechanism was introduced into the Canadian province of British Columbia in 1995.

Recall mechanisms firmly entered the public mind when Californian voters 'recalled' Governor, Gray Davis, in 2003 – an action that led to the entry into US politics of Arnold Schwarzenegger.

The issue of a recall mechanism for NSW, and questions surrounding it, are worthy of consideration in NSW and my colleagues and I am prepared to have that debate.

The public should have a say on issues like:

- whether the community should have the power to bring on an early election in circumstances where a government is failing to fulfil its mandate or purpose;
- whether it is truly democratic for the community to be forced to bear the costs of a government that has become corrupt and inept; and
- the type of recall provision that may best suit NSW's system of government.

But rather than just pose the question, the Liberal/Nationals intend to act.

A Liberal/Nationals Government will establish an independent panel of Constitutional experts to advise on the potential for recall elections in NSW.

The expert panel will report on the suitability, effectiveness and model of recall and advise on the best way of achieving Constitutional reform, including putting the question to a referenda at either the 2012 local government or 2015 State election.

It's a debate we need to have – and I look forward to hearing the public's views.

Honesty

Which brings me to the final pillar of our approach to governance – honesty.

In the private sector risk management professionals increasingly see company culture rather than regulatory compliance as the impetus for good governance.

The same applies to government. No amount of legislation or regulation can guarantee honesty in public administration or government.

Ultimately it comes down to culture, and culture starts at the top.

So many of NSW Labor's problems stem from, for the want of a better phrase, its 'corporate' culture.

Successive State Labor leaders have tolerated, and even fostered:

- a dysfunctional culture that not only condones, but rewards, those who pursue power simply for its own sake;

- a dysfunctional culture that tolerates and even encourages deal making with scant regard for probity and public interest;
- a dysfunctional culture that has facilitated the rise and rise of a Minister like Joe Tripodi who seems to be directly or indirectly linked to most Government scandals.

With each ministerial scandal, the public watch seemingly exasperated Labor Premiers trying to deal with their team's bad behaviour.

But their response seems to end in public frustration as they seldom, if ever, see any responsibility taken or any signs the culture will change.

Every time a Premier turns a blind eye to an issue of maladministration or malfeasance:

- the donor given improper access;
- the advisor appointed to the public service;
- the stakeholder given undue influence –

they give a green light to a culture where the ends have been allowed to justify the means.

And the community cost of the malaise is self-evident and disturbing.

There is no doubt that NSW is in crisis due to Labor's dysfunction.

The budget is broken. People talk about being fearful of getting sick because they have no faith in the hospital system to help them. Stress levels in the suburbs soar as late trains don't let parents pick up their kids from childcare centres or schools.

It's a cost we can no longer bear.

The community and this State deserve so much better – starting with at least honesty about where we are, where we need to be and what needs doing.

There is no better place to start the change in NSW politics than ridding the State of Labor's "decisions for donations" culture.

NSW needs sweeping reform of campaign finance if we are to restore public faith in our political process.

Whether they acknowledge it or not, concerns about Labor's fundraising and its impact upon decision-making has sapped people's confidence in government in this State.

Campaign finance reform will return the public to the centre of our system of government again.

It will replace vested or moneyed interests with public interest when it comes to making decisions in this State.

It's why I am arguing for fundamental reforms – caps on both donations and campaign spending.

It's why I am committed to dealing with both the supply and demand sides of campaign finance.

If parties can't spend the money, they don't need to raise the money.

If we imposed limits on the obscene amounts of money spent during election campaigns, Labor could end its 14 year gorging on donations.

We are also determined that steps are taken to prevent government shifting campaign costs to the taxpayer.

A Liberal/Nationals Government will empower the NSW Auditor General to independently review and approve guidelines governing all taxpayer-funded advertising in the 12 months leading up to state elections.

The longer we refuse to act, the less integrity there will be left in our political contract.

While our last two Premiers talked about donation reform, neither was prepared to act – even despite, in the case of the current incumbent, a handshake deal on the matter during a public debate.

The only reasons action is being delayed is Labor's inability to control its fundraising addiction, a cultural fear of merit based decision making and the false hope it can buy its way back into office.

There is no need for delay – and every need for leadership.

In 1978 NSW didn't wait for national action when introducing campaign finance laws. We shouldn't have to wait for national action today.

It simply requires the type of leadership I want to define my future government – leadership motivated by a commitment to rebuilding public faith in politics and public administration and determined to return Parliament to its rightful owners – the people of NSW.

Conclusion

Earlier in my remarks I quoted Lord Acton, one of England's more colourful political characters.

Perhaps more historian than politician, he nevertheless possessed an amazing ability to understand and explain the significance and often intangible processes of government.

Let me finish with some of his less famous but equally relevant words:

'Liberty is not the power of doing what we like, but the right to do what we ought.'

There is a lot of work that needs to be done to unleash the potential of NSW and its starts with getting the business of government in order.

The precursor to good government is good governance.

The most fundamental precursor to good governance is a positive ethic of transparency, accountability – and most importantly honesty.

And the State's next Liberal/Nationals Government is determined and dedicated to restoring good government to the people of this State.

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