Parliament, Political Ethics and National Integrity Systems

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INTRODUCTION
Oxymorons and Scandals

Discussion of either business ethics or political ethics generally stimulates a range of fairly standard jokes that have emerged over the 20 years spent researching and discussing these issues.[2] Retorts such as:

> 'Political ethics is an oxymoron'.
> 'Political ethics! That will be a short speech'.
> 'Harry [Evans],[3] why did you invite someone to talk about this non-existent topic?'
> 'Charles, why did you waste your time coming to talk about it?'
> And to the audience: 'why did your bother to come to hear about this?'

Twenty years ago, you might have invited Senator Richardson to comment. He would have given a very short address on ethics confined to his three word phrase: 'Whatever it takes'.[4] This response might have been seen as the epitome of the 'pragmatism' that was so happily touted.

One of the many deliberately annoying habits of philosophers is to dig down into apparently simplistic and anti-philosophical statements and find more questions than the author realised. 'Whatever it takes' implies a total commitment to ends at the expense of means. But what are those ends? How do you know that the means chosen will deliver them? Will the means chosen so offend others that the ends will not be achieved? Will the means chosen lose the necessary support to achieve the ends designated?

This prodding is related to a similar point about pragmatism, so popular during the 1980s and came to be associated with the idea that government should pursue policies that 'work'. But how do you know that a policy is 'working' if you do not know what ends you are seeking to achieve?

At the end of that decade, the focus of ethics was not so much on brief descriptions of what corporate and political ethics should be but on the manifest examples of what it should not be – as exposed in the 'WA Inc'[5] and Fitzgerald[6] enquiries. Indeed, the ethical meltdowns in politics, business and the interface between them provided the stimulus for widespread discussion of ethics in the early 1990s. Some were excited at the prospect of fundamental changes in the way we did things. An excited Australian Broadcasting Corporation (ABC)

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[2] Starting with the establishment of the Centre for Philosophy and Public Issues at Melbourne University where I was Acting, then Deputy Director and Principal Research Fellow.
[3] Former Clerk of the Australian Senate.
[4] *Whatever it Takes* became the title of Graham Richardson's autobiography published in 1994.
[5] (1992) *Report of the Royal Commission into Commercial Activities of Government and Other Matters*, Part 1 and 2.
[6] (1989) *Report of a Commission of Inquiry Pursuant to Orders in Council*, Queensland Government.

journalist asked whether the changes signalled a 'sea change'. I suggested that it 'was more likely a tidal movement which would ebb as soon as the stock market recovered'. This is not to say that real progress cannot be made and that the exposure of ethical scandals in the institutions that dominate our polity and our markets cannot be used to promote and secure important reforms which may reduce the number, duration and severity of ethical and governance scandals. Most meaningful reforms come from public outrage at such scandals and the associated imperative of doing something about it. Those who are concerned about good governance should be ready with our ideas of what should be done when scandals are exposed – as happened in the late 80s and in the last decade.

Ethics is not the first response to scandals. The initial public reaction is tougher laws and stronger enforcement against the individuals responsible. However, those who think that increasing the penalties and catching the bad apples is, or even can be, the answer, evokes the aphorism credited to HL Mencken:

> 'To every complex problem there is always a simple solution: and it is always wrong.'

At first sight, tough law enforcement seems deceptively obvious:
Bad things have happened;
There are plenty of bad people;
Therefore the bad people caused the problem;
Therefore the problem can be fixed by catching the bad people.

Prosecutions do have a cathartic effect and may help to mobilise reform. Laws can support other reforms. But they are not the key part of the answer.

First, prosecutions take a long time and are frequently inconclusive. Even if successful they will not bring back the destroyed shareholder wealth, the stolen money, the uncollected revenue or even a significant proportion of it. Even for the few who are brought to justice, most of the wealth that has been destroyed or stolen will be irrecoverable. This is not just because it can not be traced but often because it no longer exists.

Second, as we all know, laws whose purposes are not internalised are rarely effective. This is the reason that many emphasise the importance of ethics.

Third, they do not address the key institutional questions of why the 'bad apples' reached such positions of power and were tempted to abuse that power for their own ends. If there are a lot more crooked politicians or Chief Executive Officers (CEOs), it is not because there are more bad people in a particular country. It is because its corporate, bureaucratic and/or political institutions generate temptations and opportunities for corruption and tend to promote those who will give in to those temptations. The point is that many of the problems are essentially institutional rather than individual and you cannot fix institutional problems by punishing individuals.

Much of this is appreciated. In fact, there are almost as many zealous proponents of ethics and institutional reform as single solutions to governance problems. Thus, *pace* Mencken, there is not one simple solution – there are three. After law reform has failed – as it always does if tried in isolation – the other solutions are preached from a range of platforms.

Those pressing for essentially ethical solutions emphasise that law is ineffective if not backed up by the values of those they are supposed to govern. This leads to attempts to create codes of conduct and to persuade relevant players to abide by them. Some enthusiasts advocate a form of 'bare ethics' as a singular solution involving voluntary codes and 'all regulation short

of law'. Yet ethics without the sanction of law to support it is a 'knaves charter' – a guide for the good and a dead letter for the bad.

Those pressing for institutional solutions are attuned to the institutional nature of many of these problems. They recognise that much of the problem lies in the opportunities and temptations for corrupt and unethical behaviour and the difficulty in detecting it. The solution becomes the creation of new agencies and the reform of existing ones – ticking every box on the list of institutions that have worked in other countries.

Each of these three solutions is inadequate and bound to fail if tried in isolation. What is needed is a combination of the three components – ethical standard setting, legal regulation and institutional design. None are sufficient by themselves but together they provide a powerful trinity – what I have called an 'ethics and integrity regime'[7] and what Transparency International (TI) calls an 'integrity system'.

Before discussing this 'integrity system' approach, I would like to emphasise a structural issue that creates many of the problems that ethics and governance must address but may not be able to finally 'solve.'

Public Power – Dilemmas, Temptations, Tensions and Pressure Points
Politicians inhabit a uniquely challenging ethical position, both in Australian public life and in deploying public power within the specific framework of liberal democratic institutions that has evolved – and which continues to evolve – in Australia's political, social and economic system. The core idea of democracy is that the people delegate executive and/or legislative power to politicians whom the electors believe will best use that power to serve electors' interests. Politicians play a key role in that process in formulating alternatives as to how public power should be exercised for the good of the community they serve, present these choices to the electorate in open competition, and deliver on the promises and policies they have represented to the people who have elected them.

Politicians, however, are faced with many important choices about the manner in which they will exercise public power, to what ends, and, faced with complex choices and competing demands, in what order of ranking those ends ought to be pursued. These choices are quintessentially *ethical* choices. Political life is suffused with ethical choices, and as often as not these choices – especially in the current era – are not (yet) the subject of a settled tradition of clear ethical guidance. These ethical tensions manifest themselves in terms of various 'pressure points' – areas of ethical uncertainty where contemporary political practitioners, of necessity, are faced with multiple difficult ethical choices. These 'pressure points' include issues surrounding the ethics of information, government advertising, political funding, lobbying, privatisation and public-private partnerships (PPPs), zoning decisions, relationships with the media and business, and subsequent employment of members of parliament, among others.

Ethical pressure points create tensions between (sometimes coincident, sometimes competing) political and other ends, and raise familiar and important dilemmas and temptations for politicians. Temptations and dilemmas are often confused. A dilemma is found where two principles appear to require different and conflicting actions. A temptation is where the principles point one way but the interests point in the other direction. Many like to dress up temptations as dilemmas; a process that can be ridiculed as a dilemma as to whether one should do one's public duty or feather one's own nest. However, doing favours for party donors is sometimes seen as a duty to the party which is a necessary means to secure reforms that benefit the public. While the ethical answer to temptation is much clearer than to

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[7] For further discussion of this idea see, Sampford (1994b), p 114. This resembles the TI notion of an 'integrity system' and the OECD's idea of an 'ethics infrastructure'.

dilemmas, I argue that we should recognise each and deal with them within any 'ethics regime' or 'integrity system' – with greater clarity in ethical codes, sources of clear advice in cases of doubt, and mechanisms to make giving in to temptation not only clearly wrong but too risky to contemplate.

I will address two sources of tension. The first is to be found in the interactions between democratic and market institutions. In modern liberal democracies, the majority of citizens value both democracy and the market, and there is popular commitment to the belief that politics should be dominated by democratic principles and the economy should be dominated by market principles. While both democracy and the market are built on the single principle of individual choice, they involve two fundamentally different 'counting' principles for evaluating choices.

The oft-repeated counting principle of democracy is 'one vote one value'; the corresponding counting principle of the market is 'one dollar one value'. The eternal temptation is for those who have accumulated dollars in the market to use those dollars to influence those decisions that are supposed to be governed by democratic principles – through funding political parties and campaigns, to outright bribery. The reverse concern is that those who have accumulated votes may seek to convert it into dollars for themselves or their parties (corruption) or for their constituents (the traditional concern of the wealthy against government welfare provision). Accordingly, defining and policing the boundaries between the market and democracy is a perennial problem in modern liberal societies committed to both democratic and market principles. It gives rise to some of the most difficult and controversial issues in liberal democracies – several of which have been on display in recent times. Recognising these pressure points has at least two important consequences. Unless we want to abandon either the market or democracy, these pressure points will remain and integrity systems must watch out for the interaction. Thus, it will generally be better to structure the interaction in ways that reduce the pressure giving less work for the integrity system to do.[8]

A second source of tension lies at the heart of the profession of politics. Politicians offer alternatives to the electorate as to how power should be exercised and then to exercise that power in the way they have promised. This means that politicians are, of necessity, seeking power and it will attract those who want power. There is a good reason for seeking power – to exercise it for the public benefits and according to the values articulated to the electorate. There is an acceptable reason for seeking it – that politicians actually like being in that position (the public accepts this on condition that they wield power for their benefit). There is an unacceptable reason that will tempt some – that power can be exercised for the public good but in ways that the public would not understand and must not be told. And, there is a totally unjustified reason – that the power can be used for the benefit of the individual (something that is corrupt according to the definition of Transparency International).[9]

It is in the interests of governments to use that power in ways that will earn approval and convince a majority that the chosen option is the better choice. However, there is always a temptation to use governmental power to secure re-election by avoiding or distorting that choice. The crudest form of avoiding that choice involves a cancellation or postponement of elections. However, there are many other means of avoiding choice – distorting electorates and electoral boundaries, manipulating electoral practices and electoral machinery, using governmental power to silence opposition or promote government policies.

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[8] It should be emphasised that the interaction need not be toxic but can be highly beneficial (including informed policy making, efficiency and greater knowledge and debate about governmental decisions). Well designed integrity systems – such as that advocated below – help ensure that interactions between market and government institutions promote good governance rather than undermine it.

[9] An abuse of entrusted power for private gain (including gains for the abusers family, party or corporation).

Dilemmas and temptations also arise for politicians when public justifications and attempts to persuade, diverge or threaten to diverge from private, personal or party political ends, or where there is serious uncertainty about whether and to what extent policies are in fact publicly justifiable in open competition with alternatives, and in cases where the ethical distinction between persuading and misleading the public may be blurred by the concept of a 'noble lie'. Temptations arise in circumstances where governments have the power to make decisions that particularly favour certain interests by increasing the value of their property (using 'property' in its broadest sense). The classic case is building approvals and rezoning, but the principle is identical in all cases of the misuse of public power for private gain.

There is no single 'magic formula' that has been discovered for resolving the often complex and difficult ethical tensions politicians face. Instead, in this article I put forward a map of the territory which aims at a more perspicuous view of the source of politicians' ethical obligations, and propose not a comprehensive 'solution', but what experience indicates is a reliable system-wide approach to institutional ethical reform – one that offers a best ethical fit, and which I consider to be the most appropriate method of acknowledging and resolving the ethical tensions inherent in Australia's democratic political practice. Sound ethical choice-making is maximised when politicians' decisions are made in an appropriately designed, transparent and well-understood national integrity system (NIS). The reform of Australia's existing NIS along the lines suggested would constitute an ethical quantum leap, and should be welcomed by those who aspire to exemplary ethical practice in Australian politics.

NATIONAL INTEGRITY SYSTEMS
Integrity, Corruption and Politics: the Queensland Experience
To those who are unfamiliar with the concept of a 'national integrity system' – and especially to the cynical newcomer – political ethics and integrity might appear oxymoronic, and presenting Queensland's framework of integrity and accountability developed in the 1990s may seem equally implausible. In pre-Fitzgerald Queensland, the existence of corruption was widely known but its extent and modes of operation were not fully evident. The Fitzgerald Report identified the need for reform of the structure, procedures and efficiency in public administration in Queensland.[10] In the post-Fitzgerald Inquiry Queensland reform process, perhaps the most striking element was the development of a new model for combating corruption. Rather than relying upon a single law and a single anti-corruption body, existing institutions were strengthened and new institutions were formed to create a set of mutually-supporting and mutually-scrutinising institutions, agencies and laws that jointly sought to improve governmental standards and combat corruption.

Some of the reforms were versions of those tried elsewhere – involving the creation or strengthening of institutions[11] or the passage of a package of administrative laws following the Commonwealth model. However, many of the reforms were either unique to Queensland or very rare – for instance, the Queensland *Public Sector Ethics Act* 1994 and associated regime of ethical standard setting; the Queensland *Legislative Standards Act* 1992 which provided a means for the protection of human rights in the legislative process rather than just a judicial backstop; a powerful Scrutiny of Legislation Committee; and an Integrity Commissioner to provide advice on conflict of interest and potentially other ethical issues affecting ministers and their advisors.[12]

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[10] Fitzgerald (1989).
[11] The Auditor-General, parliamentary committees, the Office of the Parliamentary Counsel, the Public Sector Management Commission (which has evolved into the Public Service Commission), the Ethical Standards Command of the Queensland Police Service, the Office of Government Owned Corporations, the Director of Public Prosecutions, Legal Aid, the Electoral Commission, the Ombudsman.
[12] Preston et al (2002), p 156.

From Ethics Regimes to Integrity Systems

The Queensland reform process is fascinating, and in my various papers and seminars sought to describe it. I called it an 'ethics regime'.[13] One of the strengths of this approach was that it avoided creating a single overarching institution to fight corruption, as there are several real dangers associated with a powerful single-institution approach. Later, when 'sleaze' threatened to bring down the Major government in the UK, the government established a joint Select Committee on Standards in Public Life chaired by Lord Nolan. When the Queensland approach was to Lord Nolan and his committee and committee staffers, they included a version of the model in their own report.[14] Of more lasting impact was his support for this approach at the OECD and its public management (PUMA) group.[15]

These organisations were involved in assisting new entrants to the European Union (EU) to improve governance standards. The OECD and PUMA called the approach an 'ethics infrastructure', a term that was adopted in several jurisdictions and by the UN.[16] The idea, however, was most effectively proselytised by TI.[17] When their Chief Executive Officer, Jeremy Pope, visited Queensland, he proclaimed that this was the way to fight corruption and coined the term 'national integrity system,'[18] – typically involving a number of 'pillars'.[19] TI and later the World Bank and other aid agencies adopted this term and approach. The integrity system was neither national nor particularly systematic, but the choice of the term 'integrity system' rather than 'anti-corruption' system was inspired. Jeremy Pope chose the former because, in his view, it sounded more positive. Integrity and corruption are conceptually linked terms – with one the obverse of the other. TI defines corruption as the 'misuse of entrusted power for private benefit'. By contrast, integrity is 'the *use* of public power for officially endorsed and publicly justified purposes'.[20] The latter definition is primary because an abuse cannot be identified if correct 'use' is unknown.[21]

A 'national integrity system' encapsulates the interconnecting institutions, laws, procedures, practices and attitudes that promote integrity and reduce the likelihood of corruption in public life. Virtually every state has one in that there are always at least some such institutions, laws etc. The strength of the integrity system depends on what elements are present and how well these elements interact in promoting integrity and inhibiting corruption.

In my view, there are several features of the Queensland integrity system that should be adopted by the Commonwealth. The first, and perhaps most important reform, is the institution of an integrity commissioner to provide ethics advice to MPs and senior civil

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[13] See for example, Sampford (1994b); Sampford (2000); Sampford (2001); Sampford (2002); Sampford (2005); Sampford and Connors (2006); Sampford et al (2005); Sampford and Wood (1993).

[14] Nolan (1995). I was the first person consulted by the Nolan Committee in 1994 and he acknowledged the source of the Queensland example and the source of the advice in addresses to the OECD in a workshop on Public Sector Ethics in November 1997, the Ethics in the Public Service Network conference in Leiden in 1998 and in a lecture tour of Australia in 1999.

[15] OECD (1996); OECD (1997a); OECD (1997b); OECD (1998).

[16] UN (1990); UN (1997).

[17] Pope (2000).

[18] This story has been told many times by Jeremy Pope and others – most recently in an interview. ABC (2009).

[19] Legislature, Executive, Judiciary, Auditor-General, Ombudsman, Watchdog agencies, public service, media, civil society, private sector and international actors – traditionally shown as pillars of a Greek temple – though I later suggested a different visual metaphor of a 'bird's nest' in discussions and papers for the World Bank and Transparency International. See Sampford et al (2005).

[20] TI (2000). Note that the form of official endorsement will vary from system to system but, in a democracy, the officially endorsed uses of public power are those set by the elected government and legislature.

[21] See comments below in the section 'Integrity is primary: anti-corruption a necessary corollary'.

servants, who is appointed by a bi-partisan committee with opposition agreement to ensure the commissioner's credibility. The second Queensland reform which should be adopted by the Commonwealth – and which is a requirement of all effective integrity systems – is the establishment of a general anti-corruption commission to officially investigate corruption.[22] Third, the Public Sector Ethics Act – a general but unenforceable set of stated values and principles – is an especially innovative and subtly important Queensland reform.

What is required for the Queensland approach to work on the Commonwealth level is for each agency to create an agency-specific code, tailored to the particular challenges, temptations and dilemmas as they operate in the agency, to provide education about the code and its function, and regularly to revise the code. To ensure that the process is properly implemented – if improperly constructed the approach may be of no worth or worse – each agency requires at least one integrity officer who provides advice, training in ethics, and is a member of a government-wide network of ethics and integrity officers that is supported from a central public sector ethics agency.

Institutional Ethics and Values-Based Governance
I have long argued[23] for a values-based approach to governance of institutions – be they corporations,[24] government agencies[25] or professional groups.[26] Such an approach uses a form of 'institutional ethics' to integrate ethical standard setting, legal regulation and institutional design and utilise the insights of the four main governance disciplines in looking for potential norms. This methodology starts with Peter Singer's basic ethical question – how should we live our lives?[27] Answering that question involves asking yourself hard questions about your values, giving honest and public answers, and trying to live by those answers. If you do, you have integrity in the sense you are true to your values, and true to yourself.[28]

Institutional ethics applies the same approach to institutions (be they public agencies, political parties, professions, corporations and NGOs). It involves an institution asking hard questions about its value, giving honest and public answers and living by them. Doing so for an institution is more complex than for an individual: but it is both possible and necessary. It requires leadership in posing questions and seeking answers from members. This process starts with the vital questions that must be asked of any institution or organisation: what is it for? Why should it exist? What justifies the organisation to the community in which it operates given that the community provides privileges such as powers, immunities, funding, monopolies (professions), and the privileges of incorporation from the license to operate to limited liability? Why is the community within which it operates better for the existence of the government/corporation, and so on? Asking those questions involves an institutional and collective effort under its own formal and informal constitutional processes (including getting acceptance from relevant outsiders – including shareholders and or relevant regulators). This approach does not make the institution a charity – some of the most effective institutions in the long term are those that find profitable ways in which to serve the public (as opposed to those who find unprofitable ways to serve or profitable ways that do not serve the public interest). This is not an exercise that should be resented. Public bodies are always expected to so justify themselves and the search for new ways in which institutions can serve the community is one of the great dynamics of change (see below). Even corporations should not resent the challenge to justify themselves. Very few believe that they would operate, or would

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[22] This is not to say that the absence of a generalised anti-corruption commission ensures that there will be widespread corruption and abuse of power – merely that the risk is unacceptably higher.
[23] See note 5 above.
[24] Sampford and Wood (1993).
[25] Sampford (1994b).
[26] Sampford and Parker (1995).
[27] Singer (1993).
[28] In fact, if you don not live up to the answers you give, the first person you cheat is yourself.

long remain, if they were doing harm to the community. Most believe that a system in which people, ideas and resources can be accumulated in joint stock companies operating in more or less free markets is better for the community than other alternatives. Political parties and the profession of politicians who lead them are used to justifying themselves in terms of how they can benefit the community – it lies at the heart of their activity. While political parties in particular and politicians in general should be the ones to set out their values and put them on public display, it is almost certainly going to be on the basis that they co-ordinate proposals for the use of public power in ways that benefit those who live within the community.[29] The parties propose and package alternative principles and policies about how public power can be deployed for the benefit of the electorate. These proposals will often reflect different values or different versions of the 'public good' that institutions should pursue. These ideas are presented to the electorate to justify choosing one group of politicians over another.

An institution has integrity if it lives by its answers. However, it does so in a different way. It cannot merely be a personal commitment but an institutional commitment that involves creating mechanisms which make it more likely that the organisation keeps to the values it has publicly declared and to which it is publicly committed. These mechanisms are collectively called an 'integrity system'.

Leaders of any organisation under challenge should initiate this process and consider the justification for their existence, for the concentration of resources within them and the privileges accorded them. Why is the community better off for their existence? Is it better off? These are questions that should always be asked. In some cases, there is a demand for answers from outside as well as a need to provide them internally. While others may be seen in more urgent need of this process than politicians (for example, financial institutions, ratings agencies and any economic organisation that has built the assumption of 'efficient markets hypothesis' into the way they do business), there are always good reasons to do so and the public can turn feral on politicians more quickly than on others.

Whose values?
On this account, it is important to note that integrity involves being true to values stated rather than accepting an external set of values – mine, the community's or those identified with a particular religion – let alone those deduced by ethics professors from the philosophical theories they find most convincing. I would prefer that individuals and institutions state their values and live by them rather than pretending to conform to a set of values that they do not hold. It makes perfect sense to say that a person who has publicly stated in advance that his fundamental belief system involves the killing of babies and who goes out and kills babies has integrity. In this sense, integrity is a process value rather than a substantive value – more like democracy or the rule of law rather than fundamental human rights. This does not make integrity a defence against breaches of the laws of the land and others acting with integrity according to their own values. It should produce the response from a judge in terms of: 'that is fine, those are your values and you will appreciate that, according to my values, it is my duty to sentence you to life imprisonment.'

Of course, such extreme views are so rare as to be almost entirely confined to extreme cases to stimulate understanding and refinement of philosophical positions. Translated into the real world, if individuals did act with integrity of this kind (and did not acknowledge other personal values such as a respect for law or a dislike of the consequences of breaking important ones) trials would be quicker and cheaper! In reality, the public nature of the

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[29] Some might limit the justification to citizens rather than members of the community living within the borders of the sovereign entity of which they are a part – with special responsibility for the electors of the constituency they represent. However, most would see a responsibility to those of the wider group for reasons of prudence, humanity or the acceptance of the human rights obligations that all sovereign states have endorsed through international human rights treaties.

justification provides important constraints. Public debate and justification tend to produce either convergence of views or an understanding of differences. There are some views that we know are going to produce public disapproval and should make a career in politics non-optional.

Competing justifications and the dynamic of change
When it comes to institutions, there are going to be different views about how an institution can best serve the community and justify itself. An institution will tend to attract those whose values are congenial if not entirely identical – though it will also attract infiltrators who want the institution to change or develop its values and approaches in new directions. This is part of the dynamic of institutional change. Institutions that follow a principle of original intent will not flourish. Bologna, the Sorbonne and Oxford (the three oldest European Universities) would not have become the universities they did if they had retained their semi-monastic original goals. Indeed, it was the differential ability to develop their core values and to realise them that distinguishes successful institutions from those which wither and die. Corporations founded to market gas lamps would not survive in doing so but survived by branching into lighting or other gas appliances. Political parties founded with a central purpose of socialising the means of production and exchange have all had to change. The first parliament in Europe was established by Simon de Montfort in the thirteenth century as a group dominated by barons insisting on a limitation of royal power which left them free to oppress their serfs but developed into a means for the representatives of the descendents of those serfs to decide the kind of society they would live in and the laws by which they would be bound. The House of Lords commenced as a body to protect aristocratic privilege against the democratic tendencies of the Commons. It became a club for hereditary peers, retired politicians and rich magnates before turning into an occasional questioning of policies and legislation. The Australian Senate, intended as a states' house, was briefly a house that sought to determine the composition of government and settled down into one of the more effective houses of review.

Of course, there will generally be continuity – and often a realisation that the original values were subsets of a more important one – education and the pursuit of ideas for universities, finding new products with existing skills for corporations and the pursuit of the interests of those less well-off for left of centre parties.

Finding ways to keep open the opportunities for debate over the values that justify the institution, while ensuring that there is sufficient agreement and cohesion to deliver the public goods that are currently used to justify the institution, is a function of good leadership and governance. Where there are fundamental tensions in the role, the qualities of leadership and internal governance are even more in demand. This discovery is hardly news to any Australian politician.

Integrity is primary: Anti-Corruption is a necessary corollary
The primary goal of integrity systems is not to stop government corruption or other wrong doing altogether. If that were our primary goal, it could easily be achieved. As was put to the 2003 International Anti-Corruption Conference, every one of the 1,200 delegates had a proposal or set of proposals for reducing corruption – with the most ambitious hoping to reduce it by 95 percent or more. If I was right in my prescriptions and all followed them (with the first as preposterous an assumption as the second), corruption might be reduced by a little more. However, if you really wanted to eliminate government corruption, completely, permanently and overnight, there is a 100 percent solution … Abolish government! No government, no government corruption! We could go on to do the same for corporations the next day.[30] Though anarchists have traditionally argued for that outcome, the majority have wanted government for the benefits it can deliver to the people it claims to serve and have

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[30] Although the abolition of government would involve an abolition of its laws – presumably including those making joint stock companies possible.

been prepared to take a risk that the powers delivered to government are used for their stated purposes.

Integrity systems are not just about stopping corruption and bad behaviour. Their primary function is to promote integrity and good behaviour. In addition to prevention, we need to look at ways to 'identify, reward and promote integrity'. Integrity guidelines should be first and foremost about the values underlying public agencies, the public interests that they serve, and how the agencies fulfil those values and serve those public interests. It is easier to communicate values than detailed rules. If the detailed rules are consistent with and supportive of the agency's values, it is easier for agency members to understand and interpret the detailed rules.

For similar reasons, integrity systems should look to identify and reward integrity as well as identifying and punishing corruption. Those who are acting with integrity (that is, furthering the values underlying their agency to serve the public) should be encouraged, acknowledged and be the ones who receive the rewards most valued by public officials. This means that we should examine the positive incentives available to us – from public honours, to promotion, to commendation – with the highest rewards only available to those with the highest integrity. As one person at an integrity forum suggested: 'We need big carrots and small sticks!' We must also ensure that we do not create perverse incentives for our politicians that will create temptations to abuse their power.

Institutions created by government have a key role in the integrity system but are not the only critical pillars of political integrity. The Fitzgerald process was crucially dependent on journalists as well as watchdog groups and lawyers. Some of the problems uncovered would not have been as serious if there had been better standards of corporate governance and business ethics. Thus, some integrity measures might be more effective with greater media involvement. For example, if a parliamentarian is under scrutiny for acting in a grey area (or what he or she claims is a grey area), the media might ask if they had consulted the Integrity Commissioner. This action will leave those acting dubiously with little recourse, and encourage more to seek and follow advice. In national integrity systems, it is common to emphasise four sources of non-government support for and involvement in national integrity systems, including the press, NGO and activist groups, the professions and business.

Understanding How the Integrity System Operates
If the existing national integrity system is effective (and it largely is), it is not just because of a number of separate initiatives but because of the way they interact with each other. This question was addressed in the Australian National Integrity Systems Assessment involving the Key Centre for Ethics, Law, Justice and Governance in conjunction with Transparency International.[31] This leads to another important question: how can the elements of the framework/system become mutually supportive? This point is important, because sometimes reform involves improving the links between integrity agencies and integrity initiatives.

Maintaining and Strengthening the National Integrity System
Integrity systems tend to develop over time and need constant maintenance and strengthening. 'Eternal vigilance' is required because of the tendency of integrity systems to degrade and because of temptations inherent in the political process.[32] That vigilance is built in to integrity institutions but it is well to regularly review such systems. Fitzgerald proposed that EARC be

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[31] KCELJAG (2001); KCELJAG (2005).

[32] It is not uncommon for politicians to be a in a position to enhance their chances of retaining power by abusing their power and limiting the effectiveness of elements of the integrity system that are designed to stop such abuses. Whenever a politician gives in to that temptation, the integrity system is weakened.

permanent and many would like it revived.[33] However, it is important to review the various elements of the integrity system and their interaction (that is, are they mutually supportive when integrity agencies are doing their job and mutually checking if not?). This review process should consider the balance between education, prevention and enforcement. It should also consider the impact of major proposed public sector reforms to the integrity system to ensure that potentially perverse effects are understood and minimised, and consider potential sources of corruption risk and make suggestions for addressing them.

To perform any or all of these functions, a body would need to share some features with Queensland's Electoral and Administrative Review Commission (EARC), for example, independence of the body and the commissioners/board members; the respect of both sides of politics; the ability to engage in high quality research into the current institutions, current problems and alternative models; involve public consultations; and see its role as making proposals to be considered by Parliament, not deciding itself. (It is supremely important that Parliament, as the oldest and most critical part of integrity systems such as ours, is the ultimate forum for debate and decision on governance.) The subject matters of the body's enquiries would be set by references given to it by the Prime Minister (and Premier at state level).

Integrity Systems as a Risk Management Strategy

Integrity systems can be seen as a form or risk management. One of the most important drivers of integrity system reform should be the identification of integrity risks. Importantly, it is not necessary to prove that the risk has materialised (though this will provide conclusive evidence of the existence of the risk) for us to take action. Like all forms of insurance, there will be costs. Integrity measures utilise money and talent. While almost always ensuring better decisions and avoiding corrupt decisions, they may make decisions slow or timid or even stall decision making completely in ways that prevent public agencies providing the benefits they claim to deliver as surely as if they were acting corruptly.

Some important insights flow from a 'risk management' analysis of integrity systems. First, the purpose of integrity measures is to ensure that our institutions (from corporations to cabinets) do what they claim to do and live up to the values for which they claim to stand. Like all risk management, the probability of the risk being realised and the seriousness of the risk – as well as the costs of insurance – must be assessed. Also, like insurance, the cost of integrity measures is real but is generally a small proportion of the total. Assuming (arbitrarily) that the cost of parliament, courts and the various integrity agencies is approximately 5 percent of the federal budget, the purpose of the 5 percent investment in integrity measures is to ensure that the other 95 percent is guaranteed. Obviously, if extra integrity measures use up the 95 percent without significantly reducing risk, such measures are either not worth pursuing or the integrity measures have been poorly designed. Similarly, if the extra integrity measures mean that a lot less is realised for that 95 percent, the measures are either not worthwhile or have been poorly designed. Again, even if the risk has materialised, it does not necessarily require action if the risk is proven to be very rare or that it has been dealt with effectively. However, confidence in integrity measures is important, to the extent that sometimes we may engage in integrity measures to ensure confidence.[34]

There are three immediately identifiable ways of reducing the risk that power will be abused is a function of temptation and opportunity. The first is to reduce temptation. For example, there exists a permanent temptation where governments have the power to make decisions that particularly favour individuals by increasing the value of their property in the broadest

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[33] Fitzgerald (1989).

[34] This is related to another point – that risk can never be fully quantified and, in human systems, a risk that is not addressed may encourage behaviour to exploit that risk. For these reasons, it is rational to err on the side of over-insurance rather than under-insurance.

sense. The classic case is building approvals and rezoning. If, for example, there is a betterment tax or a charge for service provision, there is less temptation. The second is to reduce opportunity, by ensuring that those who benefit cannot be involved in the decision. Formal rules must be enforced where those who are interested do not decide – via conflict of interest rules – and do not have input, via strict lobbying rules. The third risk management technique in this area is to increase the likelihood of being discovered, through a guarantee of transparency in decision-making, so that the public can easily find out what is being decided, who benefits, and who has spoken to whom about what, by means of an officially established public right-to-know, and a requirement to give reasons and defend the proposals under administrative law.

ETHICS GUIDANCE

I do not support 'bare' ethics – ethical pronouncements that are not embedded within, and supported by, national integrity systems. Ethical guidance needs to be backed up by effective legal regulation and institutional reforms that make unethical behaviour difficult to perform and easy to detect. However, the process does have to start with ethical guidance for elected and appointed officials so that they know how they should behave and for those who are designing integrity systems to deal with the risks that some may not know how to behave.

Ethics guidance: Creating, Revising and Interpreting Codes

We now have in Australia a range of important codes for elected and appointed officials. I would argue, however, that codes should be reviewed every five years with the involvement of an external facilitator from a central agency (Public Service Commission or a central Ethics Office if established) with an annual check of issues that arose in the past year that need to be clarified. The quinquennial process would be staggered so that central office assistance was spread out over the five year time frame. Our study nine years ago suggested that experience was mixed but that agency staff involvement was limited.[35] In fact, the involvement of staff at all levels is critical. Issues look different in the CEO's office and front desk. It is critical that both perspectives are taken into account to ensure that agency specific codes address the dilemmas, temptations and uncertainties that confront agency staff.

There should also be stakeholder and community input into developing agency codes – in particular, those whom a public agency is supposed to serve should be involved. The 'clients' should not dictate how the agency operates. However, their views should be fully taken into account because their view of their needs, how those needs are interpreted, and how agency staff deals with them is a critical input without which public servants are only guessing at whether their agency is living up to the values it claim and delivering the benefits to society that justify their existence.

Ethics Investigations

Breaches of ethics that are not 'official misconduct' are best not investigated in the first instance by a body such as the Queensland Crime and Misconduct Commission (CMC). For public servants, internal disciplinary mechanisms should be utilised. For parliamentarians, it should *not* be the Integrity Commissioner. You give advice or you investigate – doing both compromises each. The original Canadian approach suggested an Ethics Counsel to advise politicians and an Ethics Commissioner to investigate breaches. This first attempt came awry when the first Ethics Counsel was appointed and asked to do the latter task. The Integrity Commissioner must confine him or herself to advice.

Given Parliamentary Privilege and the likelihood that complaints about ethics breaches will include what is said in Parliament, decisions over sanctions involve parliament and its ethics committee (censure), party (disendorsement) and the electorate (rejection at the next election). However, to avoid the temptation to make political use of ethics committee hearings, it is

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[35] KCELJAG (2001).

highly desirable if there were an independent statutory officer to give the Ethics and Privileges Committee public advice on complaints that are referred to it.

KEY ETHICAL 'PRESSURE POINTS'

I now turn to an interconnected set of central ethical issues currently facing Australian governments, and seek to offer proposals for ethical clarification and integrity measures that can support the suggested conclusions. These suggestions are based on the foundational democratic principle, discussed earlier, that politicians have a publically justified role in democratic societies that entails formulating choices for the electorate as to how public power should be exercised for the good of the community they serve. These proposals will concentrate on the ethical pressure points discussed earlier in this article.

Lying/misleading/persuading

Let us start with the one universally recognised 'hanging offence' for ministers. Misleading parliament is the one misdeed for which ministers are supposed to resign or be sacked – a misdeed that various ministerial codes rightly extend to misleading the public[36] who are, after all, the target for persuasion.

If the role of politicians is to develop, package and implement alternative policies and approaches to government so that the electors can choose, then it is easy to see why misleading electors and their representatives is so universally condemned. If there are real alternatives in policy/principle/values, then there should be real differences of opinion about which is preferable and it is the role of the politician to persuade the electorate of the superiority of their ideas.

In their enthusiasm to persuade the public that their policies/principles/values are superior, they may slip into misleading or even lying. Indeed, a perennial complaint about politicians is that they habitually do so.

Some may insist that they never lie but may seem to regularly mislead. The distinction is important, but not exculpatory. Lying involves making a false statement in order to induce a false belief. Misleading involves making a true statement in order to induce a false belief. However, if electors find out they have been mislead rather than lied to, they are unlikely to be satisfied with the excuse: 'I didn't lie to you. I just mislead you'. The effect is the same – the intentional creation of a false belief in the minds of the electors. Indeed, misleading must of necessity be premeditated and by being more calculated is, in some ways, more heinous than a lie told on the spur of the moment.

Either action strikes at the heart of the profession of politics.

The difference, of course, is whether you really believe it. This is a question of being true to your own values and asking yourself again, coming back to that thing that is really important and central to the profession of politics. It is at the centre of our integrity system. Ethics for politicians are at the centre of their activities. And the question is: Do you really believe it? Is it something that you can sleep with at night and tell you grand children about in twenty years time?

If you believe that their policies and general philosophy underlying it are correct, and if you believe that the espoused public values and public policies deserve to be chosen on their merit by your fellow citizens, there is no need to either lie or mislead. The art is to convey to the public the reasons why it is good for them – not to mislead them into choosing policies,

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[36] See, for example, John Howard's first ministerial code of conduct in 1996.

parties and parliamentarians that are not good for them. To be seen to win by other means, discredits those values and policies and dishonours the profession.

Transparency and Right to Know

There have been very significant recent developments for transparency and the 'right to know' in Australia.[37] However, I would add a strong property argument to the rights argument. Information produced by the government for the purposes of making and recording decisions is the property of the people. One, therefore, needs a good argument to deny access by the people to their property. There are some good arguments but it is important that they are applicable in the case at hand. On the other hand, there are some very bad arguments for withholding information to prevent public discovery that a minister or senior public servant was wrong, foolish, or unethical. The worst case of all is where information is withheld because it would prove that a Minister misled parliament or electorate (deliberately or otherwise), or failed to correct a statement.[38]

To use a power to withhold information for such purposes seems to be a very clear abuse of power for personal or party political ends and seems to fall within Transparency International's definition of corruption. Whether or not it is formally included within anti-corruption legislation, our procedures should ensure that information will not be withheld on that basis. In the case of a properly functioning national integrity system, Ministers in any doubt should seek advice from the Integrity Commissioner or the Information Commissioner and the latter should always have the right to release such information.

I strongly suggest that Australia should move towards a system of publishing as a rule and withholding as an exception (the reverse of the traditional approach).[39] There is no doubt that the current system does take time and resources for both the seeker and the provider of information. With the digital and web revolutions, this approach need not be a major problem for the majority of documents and the majority of organised stakeholders (though individual citizens have differential access to the web with those most disadvantaged and most in need of government services also lacking web access). Most final documents can be put on the parts of public websites that are accessible to citizens and public servants alike. Disclosure will be done as a matter of routine record keeping – it is just that this part of the file is open to everyone. There will still be some documents that are not uploaded and these will follow the rules and rulings established by past practice, court decisions and any changes that result from changes from this review.

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[37] Especially, Solomon (2008).

[38] Discussion of the Ponting case revolves around the rights and wrongs of prosecuting a civil servant who provided documentary evidence to a Member of Parliament that the then Prime Minister had lied to Parliament. However, for me, the problem begins with those who treated the information as secret in the first place. This information belongs to the people. Withholding it, so that the Prime Minister will be saved from exposure as having lied to Parliament and therefore being unfit for office according to one of the strongest conventions of the Westminster Parliament, is a grave abuse of power – and clearly corrupt on the definition offered here. Prosecuting Ponting was another serious abuse of power but would never have been an issue if the information had been declassified in the first place. I am sure that it would be said that any official declassifying that information would be persecuted. If so, that is a very grave accusation against senior officials of the then government. This is where the UK does need an anti-corruption commission as well as whistleblower protection to ensure that the real risks are those who would abuse power by preventing the release of such information rather than on those who provide it to the public. But, before that, it is important to ensure some clear thinking by public servants about the exercise of their power.

[39] The Queensland Government has introduced new Right to Information and Information Privacy legislation and a suite of policy reforms. The *Right to Information Act 2009* (Qld) and *Information Privacy Act 2009* (Qld) commenced on 1 July 2009.

The documents that are not uploaded under this suggested reform would fall into four categories. While it may be appropriate for some drafts to be made public, the ability to freely explore and debate alternatives would be hampered if all drafts had to be released as a matter of routine. Authors of documents would also take longer producing drafts if they were to be available for all to see. Their superiors would probably feel they had to exercise more control of what was written in such drafts. This does not mean that the FOI rules would not require the posting of drafts – especially in cases where existing rulings require it. However, the balance of convenience would be to allow departments to release drafts and for citizens to make application (and a case) for seeing drafts. Documents whose existence is disclosed but which are not made available constitute the second category of exceptions. The documents that fall into this category would be determined by existing rulings and any relevant changes to those rulings. Citizens doing relevant searches would be alerted to the relevant document and could make application for their publication. Of course, a title may not disclose its substance and some might be encouraged to develop obscurantist naming systems. However, clear naming will be useful for public servants. There are a number of approaches that could be taken. One would be the inclusion of key words that can be searched. Another would be to allow full text searching that identifies the documents containing relevant passages without disclosing their contents. Such requirements would be introduced in consultation with government to determine which methods are likely to cost less, be useful to the bureaucracy and which pose extra risks to the security of confidential contents of documents.

The third category of exception would include documents whose existence is not disclosed. There may not be many such documents but allowance should be made for such cases – especially for security, investigative or privacy reasons. The fourth category would include documents which are made available but with certain information blocked out. Because of the work that would have to be done to determine what information needs to be withheld and altering the document, there is no point in doing this for a large number of documents which may never be sought under Freedom of Information (FOI). Accordingly, such documents will fall into the second or third categories. However, technology may be available or capable of development that would automatically detect certain kinds of information and black it out. The rules for determining what documents fall into the relevant categories would be public. Individual citizens, non-government organisations (NGOs) and corporations could make application to the FOI commissioner for the rules to be altered. If the FOI approves a change but either government or applicant disagrees with the decision, it can be taken to the Supreme Court. Citizens and others with standing could seek the release of particular documents.

This approach to web publication of most final documents would not only respect the public's 'right to know' but increase knowledge of what government is doing with two important effects. The public would have a better understanding of what government is trying to do and either accepts what it is trying to do or to focus views as to how it might change what it is doing, and, if elected or appointed officials are doing the wrong thing, it is much more likely to be identified. Also, watchdogs outside the media will be able to be more effective and, crucially, the citizenry will not be as limited to the existing media as a source of knowledge about the activities of their elected officials.

Gifts, Donations and Fundraising
There are good reasons that ethics guidelines for receiving gifts be the same for all, on the basis of simplicity, ease of reference for both prospective recipients and givers, and transparency – the public will not become unnecessarily concerned with gifts within the standard permissible gift range but will be in a better position to be able to report suspicions that someone has received too much. Any deviation from a single rule would need to be justified, and indeed, there is much to be said for uniformity across Australian jurisdictions.

Political donation and fundraising is an area where the best approach is to reduce the pressures generated by the need to seek funds rather than to rely on integrity measures to

prevent abuses. Most of the ideas for improving this area have been around a long time (including, for example, providing time for political parties at election as a condition of the broadcasting licence, on condition that other political advertising should be either banned or funded by the government).

Attempts at restricting political donations are likely to attract the same avoidance techniques that greet any new taxation measure. The solution is to ensure that the means by which funds can be provided to political parties should be defined by inclusion rather than exception – there are specific ways of supporting a political party and all others are void (leading to forfeiture of money provided other than in an approved way).

A solution that reduces the reliance on outside funding for election campaigns avoids putting temptations in the way of politicians in carrying out their critical role in presenting, packaging and implementing their policies and approaches to government. This can be done solely on the basis of what will appeal to electors without the distraction of considering what donors think. It would also free up time for front benchers. A minister's time is one of the scarcest resources in government. Access to Cabinet must never be bought. Ministers should decide whom they want to consult and whom they should see in exercising their public office. The decision is for the minister and staff – not for the party and those from whom the party seeks to raise money.[40]

Because Australian political parties are federal, it is much better for solutions to be federal as well.

Government advertising
In 2000, 2005 and 2010, I was invited to make submissions to Senate enquiries on government advertising. I argued that the problem of government advertising campaigns had been building for at least 30 years. The first government advertisement which caused concern was one for the Australian Assistance Plan in 1975 in which a great Australian character actor had been thrown out of his house because he had a dog. The advertisement seemed to suggest that the AAP would provide a solution. If others were to see it now and compare it to campaigns over the last 20 years, they might accuse me of an overly sensitive ethical nose (and I would enter no defence to that charge). However, by 2005, the risk was universally recognised. As I put it in 2005:

> Government advertising need not be false or misleading to be problematic. It has a legitimate function in providing information on government policies to those who may be affected by them. However, it is capable of abuse if the main effect is to paint the government in a good light. Given that this is public money that is not available to the Opposition, this could constitute a particularly unfair advantage and provides a great temptation to any government. It may enable a governing party to entrench itself in power – using the fruits of past electoral victory (that is, control over government resources) to perpetuate future electoral victories it would not have earned had the playing field been level.

> …the Parliament should treat the potential abuse of political advertising in the same way as corporations identify and deal with risk. Once a board has established a risk, its magnitude and its likelihood, then it is bound to consider what it can do to limit the likelihood of the most probably and serious risks materialising and the damage that would be done. While I am not going to say that governments and parliaments should always act like corporate boards, it is always worth considering how they would approach such problems…' [41]

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[40] Note that none of this precludes charging for the cost of the meal or the overheads of organising an event. However, it would be much better if the event were not organised by the party but by the Department or by some third party.

[41] Sampford (2005) Submissions to the Senate Finance and Public Administration Committee, p 2-3.

I also noted:

> … that there is a very important side effect of having an independent, highly credible body certifying the accuracy and non-partisan nature of the advertising. This will give the advertising campaign greater credibility and increase the likelihood that it will be accepted. It will also make it far less likely that the campaigns will be attacked as false – and if it is so attacked, the government can brandish the independent arbiter's decision. This oversight will save time and money and increase the efficiency and effectiveness of the government advertising.[42]

After 20–30 years of increasing expenditure on often questionable campaigns, I would be churlish not to acknowledge the significance of the 2008 reforms. I had argued strongly in favour of formal guidelines and an independent arbiter – but suggested a committee rather than the auditor general who was frequently recommended for the latter role. Guidelines need to be developed with experience (that is why they are guidelines) and the guidelines seemed to be a very good, first iteration.[43]

The 2010 variations to process have been much criticised for removing the auditor general and substituting a committee appointed by the government. While it seems to me that the Australian National Audit Office (ANAO) did a very good job for almost two years, my preference for an independent committee remains for the original reasons given and new ones.

The rise of corporate and union campaigns also has to be addressed. The previous and ongoing concern is to ensure that a more or less level playing field is not tipped on its end by the use of government funds to assist one party in a party political debate. However, playing fields can be tipped by a range of different forces – including the application of corporate, union or even NGO resources. (While the last two have resources of a different degree of magnitude and often come in as counter-balances to other resources, they should never be ignored in considering whether the playing field is more or less level.)

The answer is not to weaken the accountability regime for governments but to:
- recognise the issue in the government accountability regime; and,
- ensure that corporations and others are also subject to the same or different but relevant accountability regimes.

Lobbying and Other Meetings with Interested Parties
There are many justifications for lobbyists – including assisting interested parties and groups understand government decision making and ensuring that they are consulted. The better government explains the decision making process and the better it organises its own consultations, the less there need there is for lobbyists and the more that the information that lobbyists sell to the few is provided to all. If this process were perfected, demand for lobbyists might evaporate. Of course, no process in any institution is perfect, and demand for lobbyists is likely to remain. Governments could abolish them but they will then be brought 'in-house'; so, for this reason alone, it is better to regulate than to prohibit lobbying.

One important integrity measure would be to require that all meetings involving those who might have an interest in the minister or department's decision should be minuted by a public servant (and/or recorded). Such records could be confidential, but would be available to integrity agencies if a later investigation is held. This measure constitutes a protection for the minister and the party concerned, in addition to its benefits for political integrity. This

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[42] Ibid.

[43] Having worked with a colleague (Dr Round) to suggest guidelines, I can recognise the difficulties of designing these *ab initio*. I am happy to acknowledge that the 2008 version covered the advertising of Cabinet policy decisions that did not require further legislation in a way that ours did not.

provision does not include social occasions, but the guideline must be that business is not discussed at social occasions, and ethics codes may need to address issues of social contact (as do those for lawyers and judges when a case involving the former is, or is likely to come, before the latter).

Post-Separation Employment
The United States has long had restrictions on employment for government officials in areas relative their official role. This approach recognises one of the most obvious pressure points between democracy and the market and a temptation when making decisions about potential employers while in office and use of information and contacts after office. There is one issue that should be acknowledged: MPs lose office because of the performance of their party, and not necessarily themselves. Those who stay for two or three terms are significantly affected. Their careers have been disrupted and they will find it difficult to go back to where they were let alone where they would (may) have risen; their political experience will not necessarily have prepared them for other work; their superannuation is not as generous as formerly was the case; but their political experience will have increased their capacity for advocacy and lobbying.

These special features identify some of the reasons why it is rational for ex-politicians to engage in lobbying, and why their best employment prospects might be in areas where they worked as a minister. This should not support an argument for lobbying. However, it does indicate that we need to review how the legitimate interests of especially medium-term parliamentarians transferring out of public life are ethically addressed. This is a better approach than compromising the integrity of the system or leaving dedicated hard working politicians out in the cold merely because the political tide has turned.

CONCLUSION
In this article, I have argued that politicians should see themselves as a profession at the heart of politics. Like any profession, they should seek to identify the public good that should define and justify their profession. I have suggested that this lies in the critical function they perform in any functioning democracy of developing, packaging and implementing alternative policies and approaches to government. Like any profession, indeed, like any institution, they should ask themselves hard questions about their values, give honest and public answers, and live by them. Living by them involves development of integrity systems that makes compliance easy and rewarding and abuse of power difficult, easy to detect and not a risk that is worthwhile taking.

References

ABC (2009) *Background Briefing*, available at http://www.abc.net.au/stories/2009/10/09/2710033.htm.
G Fitzgerald (1989) *Report of a Commission of Inquiry Pursuant to Orders in Council*, Queensland Government.
KCELJAG (2001) *Australian National Integrity System Assessment: Queensland Handbook*, KCELJAG and TI.
KCELJAG (2005) *Chaos or Coherence? Strengths, Opportunities and Challenges for Australia's Integrity Systems*, Griffith University/Transparency International Australia.
The Right Hon Lord Nolan (1995) *Standards in Public Life: First Report of the Committee on Standards in Public Life*, HMSO.
OECD (1996) *Ethics in the Public Sector: Current Issues and Practices*, OECD.
OECD (1997a) *PUMA Draft Checklist*, Symposium on Ethics in the Public Sector: Challenges and Opportunities for OECD Countries.
OECD (1997b) *Survey of Anti-Corruption Mechanisms in OECD Countries*, Symposium on Ethics in the Public Sector: Challenges and Opportunities for OECD Countries OECD.
OECD (1998) *Council Recommendations on Improving Ethical Conduct in the Public Service - Background note*, OECD.

J Pope (2000) *Confronting Corruption: The elements of a National Integrity System (The TI Source Book)*, Transparency International.

N Preston et al (2002) *Encouraging Ethics and Challenging Corruption: Reforming Governance in Public Institutions*, Federation Press.

G Richardson (1994) *Whatever it Takes,* Bantam Books.

C Sampford (1994b) 'Institutionalising public sector ethics' in N Preston (ed) *Ethics for the public sector: education and training*, Federation Press.

C Sampford (2000) *Opening address: Queensland Integrity System*, Joint Key Centre/Transparency International workshop on the Queensland Integrity System, Brisbane.

C Sampford (2001) 'Australian National integrity System Assessment' in KCELJAG (ed) *Australian National integrity System Assessment: Queensland Handbook*, KCELJAG and TI.

C Sampford (2002) 'Institutionalising ethics' in EOLSS (ed) *Encyclopaedia of Life Support Systems*, EOLSS.

C. Sampford (2005), *Additional submission to the Australian Senate Finance and Public Administration Committee Inquiry into Government Advertising*, August 2005, available at www.aph.gov.au/Senate/committee/fapa_ctte/completed_inquiries/2004-07/govtadvertising/ submissions/sub04a.pdf, pp. 2–3.

C Sampford and C. Connors (eds) (2006) *World Ethics Forum Conference Proceedings*, World Ethics Forum, Griffith University.

C Sampford and C Parker (1995) 'Legal Ethics: Legal Regulation, Ethical Standard Setting and Institutional Design'' in C Parker and C Sampford (eds) *Legal Ethics and Legal Practice: Contemporary Issues* Oxford University Press.

C Sampford et al (2005) 'From Greek temple to bird's nest: Towards a theory of coherence and mutual accountability for National Integrity Systems' 64 *Australian Journal of Public Administration* 96.

C Sampford and D Wood (1993) 'The future of business ethics: legal regulation, ethical standards setting and institutional design' in C Sampford and C Coady (eds) *Business Ethics and the Law*, Federation Press.

C. Sampford (2005) 'More and More Lawyers But Still No Judges' 8 *Legal Ethics* 16.

P Singer (1993) *How Are We to Live? Ethics in an Age of Self-Interest*, Text Publishing.

D Solomon (2008) *The Right to Information: reviewing Queensland's Freedom of Information Act*, Queensland Dept of Attorney General and Justice available at <http://www.foireview.qld.gov.au/documents_for_download/FOI-review-report-10062008.pdf>.

TI (2000) *TI Source Book 2000: Confronting Corruption: The Elements of a National Integrity System*, Transparency International.

UN (1990) *Corruption and Government and Government*, United Nations Department of Technical Co-operation for the Development and Centre for Social Development and Humanitarian Affairs.

UN (1997) *Corruption and Good Governance*, United Nations Development Programme.

West Australian Government (1992) *Report of the Royal Commission into Commercial Activities of Government and Other Matters*(WA Inc)*,* Parts 1 and 2, Government Printer.