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E&OE

Political Integrity: The Parliament, the Public Service, and the Parties.

Integrity In Government Conference, University of Melbourne Law School

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No-one ever argues that governments should have less integrity, that elected officials should not be accountable, or that public servants should behave unethically. Broad statements of the value of integrity, transparency, accountability and ethics gain general agreement from all sides of politics and from all participants in public debate.

But government integrity demands more than general expressions of goodwill. Enhancing transparency and accountability requires supportive structures as well as declarations of priorities. And cultivating ethical behaviour needs more than simple, sweeping statements of expectations.

Nor is integrity in government and in politics simply a declaration of the importance of individuals behaving ethically.

Of course, they *should* behave ethically. But, ladies and gentlemen, human nature is variable, and fallible. Individuals do, from time to time, succumb to temptation or fall into error. As the eminent thinker, French renaissance essayist Michel de Montaigne said more than four hundred years ago, “There is no man so good that if he placed all

his actions and thought under the scrutiny of the laws, he would not deserve hanging ten times in his life."

It is the responsibility of government, indeed of all institutions, to take that variability and fallibility of human nature into account in their structures and processes. Opportunities for, and temptations to, malfeasance must be minimised. Detection of, and action in response to, unethical behaviour must be swift and it must be certain.

The general responsibility to ensure institutional accountability, integrity and ethical behaviour, common to public and private sector alike, is the first reason integrity measures are a key responsibility of all governments. But it is far from the only reason.

Integrity in democratic governments has implications extending beyond integrity in non-government organisations.

Politics and parliament are seen by too many as inimical to integrity. There is a cynicism about politicians and their motives, not only here in Australia, but in many Western democracies.

This cynicism is corrosive of democracy because it undermines the contract between elector and elected: it undermines the concept of mandate if citizens cast their vote without the expectation that their representatives will represent their views or act in their interest. The electoral process is devalued when citizens have no faith in government integrity, because the choice between competing policies and programs is meaningless when there is no expectation such policies will be carried out.

Seen in this light, trust is central to the social contract of democracy. Such trust may be personal, but it *must* be institutional: trust that the processes of government, the deliberation of policy, the mechanisms of transparency and accountability, are robust enough to ensure performance accords with policy: that deeds match words.

And parliamentary and political integrity is crucial to maintaining that institutional trust. I am not talking here about the personal integrity of individuals in the political

process, even though that is a necessary component. I am talking about the integrity of our political system – the processes, the checks and safeguards that ensure transparency and ethics in the operations and decisions of government.

I have always believed that the accountability, scrutiny and review mechanisms of parliament are fundamental to our democracy, critical to holding governments to account and essential for good policy outcomes.

If the test of integrity is failed, if polling takes precedence over principle and expedience over ethics, trust in not only the individuals involved but in the entire process of democracy is undermined. This is an acute problem for parties of the left, whose agenda of reform and progress presupposes a confidence in the electorate that such reform and progress will indeed be carried out.

The rise of cynicism about politics and politicians benefits – and is encouraged by – those who seek to trade on suspicion of government. Citizens who haven't enough interest in the democratic process to stay even vaguely informed of the issues of the day have only one profound political conviction: that neither politicians nor a government comprised of them can be trusted.

That belief makes assertions about the inefficiency of government service delivery plausible, despite overwhelming evidence to the contrary. That belief undermines community support for legislative reform and government action to protect the vulnerable and promote equality. That belief renders vital infrastructure projects contentious. And in destroying faith in the ability of our political processes to resolve differences and balance competing interests, that belief sabotages the possibility of achieving consensus in the face of national challenges.

Labor won government in 2007 with a suite of integrity commitments, and has enacted a number of important reforms. But there are further key steps the Commonwealth government can and should take to promote that transparency and accountability that underpins political integrity and, in doing so, strengthens our democracy.

The first step is the finalisation of the National Anti Corruption Plan.

The Australian Government is a strong supporter of the UN Convention Against Corruption (UNCAC) Implementation Review Mechanism as a meaningful way for nations to identify strengths and weaknesses in their anti-corruption systems.

The process has been taken seriously in Australia.

Earlier this year the review team finalised its examination of Australia's compliance with UNCAC, and encouragingly, the Australian government will incorporate the comments of the review team in the development of Australia's first Anti- Corruption Plan.

The report of the Review team highlighted a number of sound anti-corruption practices in Australia, including:

- the unexplained wealth provisions contained in the Proceeds of Crime Act 2002
- Australia's development and expansion of a federal non-conviction based forfeiture scheme
- the comprehensive range of investigative tools for fighting corruption, and
- Australia's money laundering offences that go beyond the minimum UNCAC standards.

But, the team recommended Australia continue to consult on and review the effectiveness of its anti-corruption measures, and it highlighted the urgent need for a "comprehensive scheme for public sector whistleblower protection and to expedite access to existing protections for private sector whistleblowers".

The findings and recommendations arising from the UNCAC review will be considered as the National Anti-Corruption Plan – announced in September last year – is further developed.

The Attorney General's Department has conducted consultations and received written submissions from a diverse range of academic practitioners, civil-society organisations and private citizens as part of the Plan's development.

The submissions provided both valuable analysis of the effectiveness of the systems currently in place to respond to corruption in Australia, as well as ideas for improvement.

I understand that many issues received in stakeholder submissions are now being considered by the Attorney General for inclusion in the Plan, such as:

- The need for whole of government policy leadership on the issue of corruption,
- The issue of mandatory reporting of suspected corruption, perhaps to the Ombudsman
- The desirability, or not, of centralising fraud and corruption investigations
- How to integrate corruption into risk assessments
- Consider the breadth and reach of Integrity training needed, and
- whistleblower protections.

These will be important steps in improving and strengthening safeguards to fight corruption in Australia and I look forward to the publication and implementation of the Plan being a priority for the Government in the New Year.

The second step is legislation protecting public interest disclosure.

Ladies and Gentlemen, loyalty to a colleague, or immediate supervisor, or even to one's own self-interest, should not overtake loyalty to the long-term interests of an organisation, or to the wider public.

For some Australians, there comes a time in their life when they become aware that a colleague, an employer, an employee, a consultant or contractor is doing something wrong – perhaps bullying or harassing others in the workplace, perhaps misusing resources or misappropriating funds, perhaps concealing important information because it would damage the organisation. In this situation, some people will decide to keep their heads down, turn a blind eye, not get involved.

But some courageous individuals will take a stand. They will report what they have seen. They will – often at personal risk or personal cost – 'blow the whistle'.

We depend on whistleblowers to alert us to misconduct or malfeasance and corruption. People inside organisations are often in the best position to be the first to know something is wrong, and their actions in raising the alarm can stop a problem before it becomes a crisis. They should not have to risk their careers or their mental and physical health, just to do the right thing.

Ladies and Gentlemen, an effective scheme which enables and encourages genuine individuals to blow the whistle without fear of retaliation or reprisal is now broadly accepted as an essential tool for strengthening accountability and transparency and fighting corruption in the public and private sectors.

An act of retaliation against a protected disclosure of wrongdoing by a whistleblower should be seen as a serious form of misconduct.

I accept that the current provisions relating to 'whistleblowing' in the Commonwealth *Public Service Act 1999*, namely section 16, are limited and inadequate.

An improved and comprehensive legislative framework for public interest disclosure for the Australian Public Service and the public sector more generally is desperately needed now.

While the Labor Party has had a long standing commitment to strong whistle-blower protections we still await the introduction of modern and comprehensive legislation to deliver on this commitment.

In 2008, the House of Representatives Standing Committee on Legal and Constitutional Affairs, chaired by Mark Dreyfus QC MP, was tasked to examine whistleblower protection models and report their findings.

The Committee handed down its Report entitled, *Whistleblower protection: a comprehensive scheme for the Commonwealth public sector*, in February, 2009.

The main recommendations of the report were that:

- new legislation be introduced titled the Public Interest Disclosure Bill;
- the primary objective of the legislation be to promote accountability in public administration;
- the legislation cover a broad range of employees in the Australian Government public sector including APS and non-APS agencies, contractors, consultants and their employees and parliamentary staff;
- disclosures to be protected include serious matters relating to illegal activity, corruption, maladministration, breach of public trust, scientific misconduct, wastage of public funds, dangers to public health and safety, and dangers to the environment;
- decision makers to have discretion to include other types of allegations even if they are not initially made through prescribed channels, as long as the whistleblower shows good faith in the spirit of the Act;
- the scope of statutory protection should include protection against detrimental action in the workplace, and immunity from criminal and civil liability and other actions such as defamation and breach of confidence;
- the system comprise a two stage process of internal and external reporting with the Commonwealth Ombudsman to oversee the administration of the Act;

- agencies and the Ombudsman to have a number of obligations and responsibilities including the provision of procedural fairness and reporting on the operation of the system; and

- the legislation be supported by an awareness campaign to promote a culture that supports disclosure within the public sector, where people feel confident to speak out when they are in doubt.

The Government broadly endorsed the findings of the Committee in 2010, however, no exposure draft of a Bill based on the Report's recommendations has yet been made public – over three years later.

And here let me remind you that the Report's recommendations were generally regarded as sound in 2009, and they were generally consistent with the better whistleblower laws of most of Australia's States and Territories which have now been in effect for almost two decades.

Ladies and Gentlemen, I support the broadening and strengthening of an effective pro-disclosure system across the Australian Government by the introduction of modern best-practice legislation.

It's past time to get serious about whistleblowing, and whistleblower protection, and implement the findings of the Dreyfus Report.

It's past time for an exposure draft of the Government's proposed Whistleblower Legislation to be made public.

It is essential that a new, tough Public Interest Disclosure Act be in place at the federal level of government before the next election.

The third key step the Commonwealth Government should take is to pursue the introduction of a Code of Conduct for Members of Federal Parliament.

We have a code of conduct for Ministers, for ministerial staff, for public servants, even for lobbyists. The *Standards of Ministerial Ethics* – which I sponsored when we came

into Government in 2007 – show that a properly designed Code can be meaningful, and effective, in setting out public standards of ethics and integrity among Ministers, who are expected to recognise that public office involves a public trust.

I *can* see no justification for there being no code which sets out the applicable ethics standards for my conduct as a Federal Parliamentarian.

It did seem after the last Federal Election there was general agreement to right this wrong.

Some history:

In September 2010, three independent members of the House of Representatives, and the Australian Greens, agreed to support the formation of a minority Labor Government.

The introduction of a code of conduct applying to Federal Parliamentarians was part of the argy-bargy of the negotiations at the time.

Even the Coalition jumped on board.

An “Agreement for a Better Parliament: Parliamentary Reform”, was negotiated and agreed between the Labor Party, the Coalition and the Independents. It included a clause to establish a formal code of conduct for Members and Senators.

The clause read – “A cross-party working group and enquiry process will be established to draft a code of conduct for members of the House and the Senate. Once established, this code will be overseen by the Privileges Committee”.

The House of Representatives Privileges and Members Interests Committee was tasked to develop a draft code, consider the role of a Parliamentary Integrity Commissioner in upholding a code, consider how a code might be enforced, and recommend on what sanctions would be available.

The House Committee was to consult with the Senate Standing Committee of Senators' Interests, with the aim of developing a uniform code for the whole Parliament, and a process for its implementation.

The House Committee reported in November 2011, attaching a draft code of conduct and observing that there was value in the appointment of an independent Parliamentary Integrity Commissioner.

In May this year, Independent MP Rob Oakeshott proposed a motion that the House of Representatives endorse the code of conduct contained in the House Committee's Report.

That motion languished on the House Notice Paper until last Thursday evening, when in the last minutes of the Parliamentary year, it was passed 60 – 58.

The Senate made its position clear, also on the last day of sitting this year. The Senators Interests' Committee tabled a report recommending the Senate *not* adopt the code proposed by the House Committee.

Ladies and Gentlemen, this process has been unedifying.

I am not so unkind to suggest it was designed to fail, but its failure was inevitable.

I strongly favoured the successful Joint Select Committee model used to inquire into the establishment of a Parliamentary Budget Office – also a commitment made between the major parties and Independents after the 2010 Federal Election. I urged that the Joint Select Committee model be the mechanism to progress the establishment of a code of conduct for Members and Senators.

I failed to persuade my colleagues.

And so we all need to think again – the PBO Joint Select Committee model worked.

I know, I chaired it.

The Joint Select Committee's terms of reference were clear.

Its reporting time frame brief.

Its representation broad – from both chambers; and from Labor, Coalition, Greens and Independents.

That Joint Select Committee brought down a unanimous report with 28 recommendations agreed to by each and every member.

The Government responded, accepting all 28 recommendations.

The Government funded the PBO, in the 2011 Budget providing $24.9 million over 4 years.

Legislation establishing a Parliamentary Budget Office was passed.

The independent PBO is up and running.

This is an integrity measure success story.

Ladies and Gentlemen, Federal Parliamentarians need to get serious about a code of conduct to apply to them, not because I think Parliamentarians are ignorant or uncaring about ethics and integrity matters – generally they are not – but because the public at large is entitled to know that objective standards exist, and that these standards are open to public discussion, and public assessment.

Openness and accountability, after all, underpin public trust in our system of Parliamentary government.

I would like to see the Parliament try again on this issue.

We need a Joint Select Committee to inquire into the issue of a code conduct for Members and Senators and into the establishment of a Parliamentary Integrity Commissioner.

And, we need this to happen before the next election. The process should start in early 2013, and proceed quickly to a conclusion.

The fourth key step the Commonwealth Government should take is to become a signatory and support the Open Government Partnership.

Launched last year in New York, the OGP was established to promote transparency, tackle corruption, invigorate civic participation and, *especially important* in this digital age, harness new technologies, so the ideals of freedom and democracy are strengthened in implementing countries.

As the Open Government Partnership Declaration observes:

"People all around the world are demanding more openness in government, calling for greater civic participation in public affairs, and seeking ways to make their governments more transparent, responsive, accountable and effective".

With its membership now numbering 57, national governments of the Open Government Partnership commit:

- To be more transparent at every level, by increasing the availability of information about the activities of government.
- To engage more citizens in decision making, so they participate more actively in their democracy, thereby making government more effective and responsive.
- To implement the highest standards of professional integrity throughout administrations, and
- To increase access to new technologies for openness and accountability.

Though it goes by the name "Open Government Partnership" – it is in equal measure a partnership with civil society.

Government does not have a monopoly on wisdom.

The commitments of OGP member states are put into practice by working with civil society organisations to implement concrete plans of action.

Already the OGP is setting a new global standard for good governance.

The OGP roll call of democracies committed to strengthening a global culture of transparency and accountability includes some of our oldest friends: the United States of America, the United Kingdom, Norway, and Canada.

I am disappointed that Australia is a notable absentee.

The Australian Government has indicated that it is considering the detail of the initiative but has so far reserved its decision on participating in the Open Government Partnership.

Given the Government's stated commitment to transparency, accountability and good governance, we should not hesitate to join this international effort to promote these fundamental values.

Australia has always embraced and benefited from participation in international institutions and initiatives.

We should seize the opportunity to do the same with the OGP.

It is ironic that the largest recipient of Australia's overseas development assistance, Indonesia, is a very active member of the Open Government Partnership and currently a co-chair, yet, Australia is nowhere to be seen.

When other recipients of Australia's aid, such as the Philippines and Tanzania, are also members, I find it very hard to justify Australia's absence.

Membership of the Open Government Partnership would assist Australia to spread values of transparency and accountability in our region – a region where 22 of Australia's 24 nearest neighbours are developing countries.

In light of the Gillard Government's recent Asian Century White Paper and Australia's new role as a member of the UN Security Council, Australia should utilise the OGP to encourage and support continuing efforts in our region to strengthen democratic processes and encourage greater scrutiny of government.

Australia has a wealth of knowledge and experience to share with other nations who comprise the growing Open Government Partnership.

For example, last November the Government unveiled a new Transparency Charter, which now publishes, *online*, detailed current information and results about what our aid program is delivering.

Internal audit reports and strategic direction documents are also being published online.

Against this backdrop it is not surprising our Agency for International Development – AusAID - was recently ranked 18 of 72 donors in the *2012 AID Transparency Index* developed by Publish What You Fund – The Global Campaign for Aid Transparency.

Encouragingly, the report notes that AusAID had improved its transparency score by 31 percentage points and its rank by 16 places, but, it also made quite clear that Australia should consider joining the OGP.

One example of an international transparency and accountability initiative which Australia has committed to is the Extractive Industries Transparency Initiative or EITI.

At last year's Commonwealth Heads of Government meeting in Perth, Australia actively urged leaders to recognise the importance of sustainable natural resource management and commit to the EITI.

The EITI promotes better governance in countries rich in oil, gas and minerals by seeking to reduce the risk of corrupt diversion or misappropriation of funds generated by the development of a country's resources.

Australia is a member of the EITI Management Committee and has so far committed $17.45 million (2007 to 2015) to the World Bank administered Multi-Donor Trust Fund and the EITI Secretariat.

With the only other EITI-compliant country in our region being Timor Leste, the OGP would provide an excellent opportunity for Australia to encourage our other developing

resource-rich neighbours such as Indonesia, Papua New Guinea, and the Solomon Islands to sign on.

The OGP presents a great opportunity for Australia – a technologically advanced and open democracy – to underpin future commitments to openness, transparency, and accountability through engagement with an internationally recognised and respected multilateral initiative. Membership could only strengthen our democracy and governance.

Through the Open Government Partnership we can advocate strongly for more openness in other nations while enriching our own.

The time for Australia to join is now.

The fifth key step for the Commonwealth Government is electoral funding reform.

Ladies and gentlemen, In a democracy, where the ultimate accountability is to the public through the ballot box, the fair, open and transparent operation of our electoral system is of paramount importance. Public confidence in the integrity of our democracy rests on it.

In Australia, as in other democracies around the world, the potential for political donations and campaign financing to go undisclosed has become more and more a matter of concern.

Public perceptions of the potentially distorting nature of large donations – either in cash or in kind – to candidates and political parties degrades public trust in the integrity of both the political process, and what should be its two main outcomes – well considered policy and effective laws.

The perception of undue influence can be as damaging to democracy as undue influence itself.

Confidence in government processes and policies can be undermined.

The public is left wondering if decisions have been made on their merits, and in the public interest.

The full and timely disclosure of donations to election candidates and political parties can address these concerns.

Following a report of the Joint Select Committee on Electoral Reform after the 1983 Election, public funding of election campaigns and laws governing the disclosure of political donations commenced in 1984.

The new disclosure regime was opposed by the Coalition, and since that time, there has never been a bi-partisan approach to setting the threshold level at which a political party or donor must disclose a donation.

In 2006, in the dying days of the Howard Government, the Electoral Act was amended to increase the disclosure threshold from $1500 to $10,000, with annual indexation. That figure now stands at $12,100

In 2008, as Special Minister of State, I released a Green Paper on reform to political donations, funding and expenditure.

The Green Paper clearly identified my concern that the spiralling cost of electioneering had created a campaigning 'arms race' – heightening the pressure on political parties and opening the door to the buying and selling of access and influence.

In 2008, I introduced legislation to tighten electoral disclosure laws. It was defeated in the Senate.

That legislation contained reforms including:

- a dramatic reduction in the threshold for the disclosure of donations to $1000,

- Measures to avoid donation splitting between different branches of political parties, and

- Prohibitions on anonymous and foreign donations.

A revised version of the Bill was passed by the House of Representatives on 16 March 2009. The Second Reading of the Bill was moved in the Senate on 17 March 2009, and no further action was taken, as the Coalition with the support of the Family First Senator had sufficient numbers to block the bill. That Bill lapsed at the end of the last Parliament.

After the 2010 election, the Gillard Government re-introduced very similar legislation. It passed the House in November 2010 and was introduced to the Senate on 17 November 2010.

On 11 May 2011, the Senate tasked the Joint Standing Committee on Electoral Matters to report on options to improve the system for the funding of political parties and election campaigns.

The Committee was asked to examine a range of matters, including issues arising from the Green Paper, the role of third parties in the electoral process, and the transparency and accountability of the funding regime.

Unsurprisingly, evidence presented to the Committee demonstrated that a higher disclosure threshold level meant a great number of donations received by political parties were hidden from the public.

Analysis by the Parliamentary Library revealed that, when the threshold was set at $1500 the major parties were revealing 75 percent of their receipts.

But only half of their receipts were revealed when the threshold was raised to $10,000.

Of course, it's just common sense. The higher the mandatory disclosure threshold for political donations, the less openness there will be, and the greater will be the undisclosed funding channelled to political parties.

During the hearings, the Chief Legal Officer of the AEC also made it clear:

"the lower the level, the more that is disclosed. That is a question of fact and I think the evidence in the past bears that out."

In its Report, the Committee noted that there is a balance to be struck between, on the one hand, the private interests of donors and their freedom to legitimately participate in the political system and, on the other hand, the public interest in ensuring transparency and accountability of the financing of political parties.

The Committee recommended the threshold for disclosure of political donations be reduced to $1000.

The Joint Committee also recommended reforms that would:

- introduce six-monthly disclosure of donations and political expenditure, rather than just annual disclosure;
- introduce ‘Special Reporting Event returns ’ for donations over $100,000 so they are disclosed within 14 days and made public within 10 days of disclosure to the AEC;
- ban foreign donations totally, and ban anonymous gifts of over $50;
- close a loophole where multiple donations below the threshold to different branches of the same party can be hidden;
- amend the definition of “gift” to include fundraising events, also closing a clear loophole in the existing disclosure regime; and
- make the entitlement to receipt of public funding of political parties for elections more accountable, by tying it to verified electoral expenditure, so that candidates are not able to make a financial gain from public funding.

These recommendations were, and still are, strong and appropriate.

They are consistent with my earlier unsuccessful efforts as Special Minister of State to tighten our funding and disclosure laws.

The agreement reached between the Labor Party, the Greens and the Independents before the Government was sworn in included a clause to progress the substantive measures in

the Government's previous electoral Bills, and, after a Committee inquiry, to deal with legislation in 2012.

There is no excuse for further delay on these important integrity reforms.

The legislation is mostly drafted, the issues have been widely canvassed, the arguments understood and the need for major reform urgent.

This needs to happen before the end of the current Parliament.

Ladies and gentlemen, transparency around political donations is vital to maintaining public trust in our political system because our electoral processes are a fundamental part of our democracy.

So too, political parties have an **essential** role in Australia's political system. Very early in Australia's history as a nation, political parties became fundamental to the electoral contest and to the formation of governments.

Political parties also have a **privileged** position in our electoral system.

Anyone can run for public office, but a registered political party can be formally recognised on the ballot paper, nominate multiple candidates, and receive public funding for its election costs if its endorsed candidates receive over 4 percent of the vote.

And let's not forget just how much public funding is potentially available to a political party.

In the 2010 election, public funding provided $2.31 for each primary vote cast in the election for both houses of parliament.

Over $53 million was paid out in 2010, with $23.5m going to the Coalition parties, $21m to Labor and $7.2m to The Greens.

In the past four Federal elections, over $180m of public funding has been dispersed, with over 80 percent of that funding going to the two major parties in reimbursement of their election costs.

Political parties also have privileged access to the Electoral Roll, and are exempted from most of the provisions of the Privacy Act in their use of the Roll, as long as that use is for 'electoral purposes'.

Donations to registered political parties of up to $1,500 are tax deductible. This tax deductibility aims to encourage broad civic engagement in politics and public affairs, as well as to reduce the risk of corruption which can arise where parties' election campaigns are funded covertly by wealthy private interests.

These entitlements should entail strict conditions and obligations for those political parties which qualify for them. Surely it should be essential that parties meet some agreed minimum standards of openness, transparency, and democratic process - all the more so given the key role they play in the determination of governments and in public understanding of our parliament, our government, and the integrity of both.

The time has come for all Australia's registered political parties to be more transparent and accountable, not least because Australian electors are entitled, in principle, to be in a position to choose their preferred candidates on a properly informed basis. What is unreasonable about that?

Corporations Law and industrial laws place a range of minimum standards and obligations on businesses, associations and unions.

Those standards and obligations are designed to protect shareholders, members, investors and consumers, and promote trustworthiness in the Australian business sector.

Of course companies and unions don't always behave properly or legally, but they can be held accountable for their actions – through scrutiny in the courts if necessary.

It is now time for political parties to satisfy comparable minimum standards of transparency and accountability before they are registered, before they become entitled to public funding, and before electors have to choose between them. I believe that placing this requirement on political parties is important next step in electoral law reform.

While I believe that *all* political parties have a responsibility to ensure their practices and rules bolster, rather than undermine, public confidence in the integrity of our political processes, I have, as I'm sure you can appreciate, a particular interest in the Australian Labor Party, being as I always readily admit, a life-long member of the NSW Branch and a product of its factional system.

Principles of integrity, transparency, and accountability are crucially important to Labor's reforming agenda, because faith in the political process is crucially important to the necessary consensus building which makes reform possible. And those principles are crucially important to Labor's core values of fairness and equality, because they safeguard our government and our polity against vested interests, self-interest and unfair advantage.

For these reasons, when it comes to political party accountability, Labor must set the best example.

We have to practice what we preach.

In Labor, when we talk about the need for more democracy within the Party, we often discuss it in terms of the self-evident virtue of democratic decision-making and transparent decision-making. And I do believe that democratic processes and transparent decision-making are, in and of themselves, a good thing. They do not need to be justified as means to an end.

But, ladies and gentlemen, our Party processes are not an abstract debate. The way we reach our decisions shapes what those decisions are. Our rules and processes ought to be – and in fact they used to be – intended to give the best possible chance at good outcomes through the exchange of ideas and wider examination of options that comes through open and democratic processes. This is crucial for good government.

And it is crucial for the integrity of our political system. Decisions reflect the perspectives of those involved in making them. In the case of the ALP, and particularly the NSW Branch, the increasing limitation of those involved in decisions about rules, disputes, and preselections, as well as policy, has meant that our Party's

actions reflect the stunted perspectives of just a few, and bear little or no relationship to the expectations of the Party members, the broader labour movement, or the community.

A healthy political party has internal processes that ensure decisions are connected to the values and the expectations of supporters, not just powerbrokers alone. This must apply not only to our policies, but also to the men and women chosen to represent our cause and argue our case in Parliament.

Ladies and gentlemen, to have integrity, politicians must have the courage to defend their political principles and the strength to uphold their moral convictions. Fail either of these two challenges and political integrity is an impossibility.

Recent ICAC hearings in NSW have seen serious allegations made that some Labor Parliamentary and Party representatives in NSW have failed these two challenges.

It is time to publically acknowledge that there have been some in our Party's ranks with neither political principles to defend nor moral convictions to uphold.

They are a small minority, in a very big majority of decent, ethical, people. But the fact that they are few in number does not diminish the gravity of the accusations against them, or the seriousness of their acts.

To make that admission may leave the Labor Party open to criticism, but I am not so brazen as to make a speech about *political integrity* at a conference such as this and sweep issues in my own branch of my own Party under the carpet.

There are some key reforms to the rules and operation of the NSW Branch of the ALP that would go some way to changing the practices and the culture that have produced the recent unedifying spectacle in ICAC.

First, Party rules must be subject to the courts. Currently, Rule C1 *" Legal Status of Rules"* states that the rules of the NSW Branch of the ALP are not judiciable. There are serious doubts if this rule is even enforceable, nevertheless, that rule should be

abolished, and replaced with a rule that makes it expressly clear that any action or decision within the NSW ALP can be challenged in a court of law.

I further believe that the rules and decisions of all political parties should be judiciable, and that State and Federal Governments should consider making a party's eligibility for public funding contingent upon it.

Secondly, all decisions about party disputes in NSW should be taken out of the hands of party bodies controlled by the factions, such as machinery committees, the Administrative Committee and Annual Conference.

Currently, the membership of the party bodies empowered to resolve disputes and determine breaches of the rules are elected along factional lines. Those bodies invariably rule in line with factional self-interest. Flagrant breaches of the rules are swept under the carpet. Those with the numbers crunch through determinations blatantly in contradiction of the facts. The factional minority is all too often quiescent, perhaps benefiting from a blind eye turned to their own misdeeds.

All machinery committees in the NSW Branch should be abolished. They should be replaced with a *NSW ALP Appeals Tribunal* comprised of eminent, ethical people, independent of the factions, to be the arbiter on internal party disputes.

Such an approach was recommended nationally in the Hawke/Wran Review in 2001, but was watered down by the factions. The existing National Appeals Tribunal is weak and poorly resourced, and ultimately only makes "recommendations" to the National Executive, which is then able to make a final decision on a factional basis.

I propose a *NSW ALP Appeals Tribunal* of, say, 5 members, chaired by a retired judge, who hear cases as individual members determined by lot, with an appeal right to the "full bench" of the Tribunal if required. After that process has concluded I would favour no right of appeal to the Annual Conference – with decisions only open to review by the courts.

Thirdly, the NSW Branch must establish a “one strike and you’re out” policy for any Labor Party member found guilty of acting corruptly either within or without the party. A culture has developed in the NSW Branch where, for some, being caught out at sharp practices is worn almost as a badge of honour. Our party would be immeasurably better off without such people.

Fourthly, we must change the party Rules to preselect Senate and Legislative Councillors by a ballot of the full Party membership within NSW – where every party member has an equal vote and an equal say. These ballots should be conducted by the AEC. A new democratic preselection system will ensure that such decisions are not left to only a tiny coterie of union and factional leaders.

I note that the Parliamentarians starring in ICAC’s recent hearings have been members or former members of the NSW Upper House – and like all of us preselected by NSW Labor for the State or Federal Upper Houses, they never needed to seek support from the members of the Party, but only from the factions.

Fifthly, we must develop a Charter of Rights for members to ensure the integrity of the workings of the ALP. The charter should include:

· A clear statement the Rules are binding on all party members

· Members have a right to equality before the Rules

· Members have a right to be heard

· Members have a right to stand for office

· Members have a right to seek redress of grievance before the *NSW ALP Appeals Tribunal*

· Members have a right to be respected by the leadership, elected parliamentarians and Party officials

Sixthly, a Party integrity advisory service – open to all Party members – should be established. This must be independent. All Party members must have the right to take concerns about the operation of the Party and its rules to an independent body for advice, and all Party members must have the right to be protected from any reprisals for so doing.

Seventhly, the practice of factions, affiliates or interest groups binding parliamentarians in Parliamentary Party votes or ballots must be banned. I have said before that there is nothing wrong with people who share convictions on policy issues working together to progress those issues. There is, however, a great deal wrong with a situation where a Russian doll of nested caucuses sees a tiny minority of MPs exercising a controlling interest over the majority. Labor's principle of caucus solidarity, developed to ensure consistency with the Party Platform and stability in Parliament, depends for its integrity on democratic decision-making within Caucus.

Factional binding is inherently undemocratic. It allows a group with 51% of a subfaction, which then makes up 51% of a faction, which in turn has 51% of the Caucus numbers, to force the entire Caucus to their position.

These seven steps are, in my view, essential to Labor's future – and, I believe, they are essential steps to restoring public faith in our political party and in the political system.

The concept of Party reform has received wide support. Indeed, in the ALP, we are all reformers now! But not enough has been done, and what *has* been done does not adequately address two key issues:

- making sure *all* our Parliamentarians are men and women who have the support of the great number of honourable and honest members of the ALP and not merely of a tiny coterie of self-interested factional warriors;

- making sure our rules are fair and are fairly and impartially enforced on *all* members of the Party.

Support for Party reform in principle melts away when specific proposals that would change the power balance within the ALP are put on the table. But, ladies and gentlemen, it is clear that the current power balance, the current power structures, have enabled too much disgraceful conduct and arrogantly corrupt behaviour. It is clear, too, that some of those empowered by our current structures are resistant to measures which curtail their power.

Ladies and gentlemen.

I believe the Commonwealth Government should be the standard bearer for good governance.

As you know, I think there is more to be done to enhance transparency and accountability at the federal level.

And I have outlined some of the reforms I think the Commonwealth Government should embrace.

While it is critical that people like you – and me – continue to press for greater transparency and accountability, we must not fail to recognise, support and maintain key measures already in place.

Since 2007, Labor in office has implemented key reforms that have materially enhanced the way we are governed:

- New standards of ministerial ethics which, among other things, ban direct ownership of shares by Ministers and Parliamentary Secretaries
- A ministerial staff code of conduct
- The first Commonwealth lobbying code and accompanying public register of lobbyists
- A merit selection process for agency heads and senior statutory appointments
- The Parliamentary Budget Office

- Reform to Freedom of Information laws including the abolition of conclusive certificates and the creation of the office of the Australian Information Commissioner.

I have been frank with you about my belief that further progress needs to be made in some areas by the current Government.

Let me be equally frank about my fear for the future of the six key reforms I have just outlined.

Why? Because none were adopted by the previous Coalition Government, some have been actively opposed by the Coalition in Opposition, and none have been guaranteed to remain in place under a future Coalition Government.

Ladies and gentlemen, no one is ever opposed to integrity. No one ever argues that our political system needs less of it. But unanimous support for integrity in the abstract all too often fractures in the face of specific measures. And they are deferred or delayed, or even dropped, as lower-order issues.

They may not be the most *urgent* issues, compared to some. But they ought to *always* be priorities.

For the health of our political system, of our democracy, political integrity is absolutely fundamental. As Alan K Simpson, Republican Senator for Wyoming, said in a slightly different context, “If you have integrity, nothing else matters. If you don't have integrity, nothing else matters.”