

## Democracy, Trust and Legitimacy

I would like to begin by telling you a true story. One validated by the principal actor in it, the former Prime Minister, Gough Whitlam. He was in London and was invited during a visit to the United Kingdom to give a speech to the good and the great from the city of London in the Mansion House. On this particular occasion the host for the event was the then Lord Mayor of London. Whitlam was thinking what he was going to say by way of a few informal remarks before launching into what was going to be a fairly dry speech about economic policy, but was wondering what possible connection he could make with his host because whereas Whitlam saw himself as a radical reforming Labor Prime Minister the then Lord Mayor of London was an arch conservative. So he was reading down a briefing sheet provided by a protocol officer and he noticed just one thing which stood out in the career of the Lord Mayor. And that was that he was a distinguished oarsman. He had rowed for his school, he had rowed for his university and he had gone on to row for Great Britain.

Whitlam stood up—and you can imagine the scene: long tables, beautifully pressed and starched linen, gold and silver, people in livery, black tie and all the rest—and Whitlam says, ‘Your Worship, my Lords, Ladies and Gentleman, I came here this evening thinking that His Worship and I have absolutely nothing in common, but now I find that we are united by one thing, because as you know, he is a distinguished oarsman and I am a politician and the thing that unites us is that we both look one way and go the other’. I had dinner with him once and I asked him if this was true and he assured me it was and took great pride in his witticism.

This notion of looking one way and then going the other obviously has its humorous edge but that edge has progressively been blunted when you look around our society and begin to see what flows from that general phenomenon where individuals and institutions look one way and go the other, say one thing and do something else. You can see it in a whole host of institutions that seem to have had a decline in trust, whether it is corporations (particularly those in the financial sector), churches, religious organisations of one kind or another and, of course, public institutions like parliaments, political parties and politicians. So much so now that you are beginning to see deep and public questioning about these institutions and the individuals who allegedly serve them. Questioning about politics and whether it is still in any sense a noble pursuit, about parliament and associated institutions and even about the value of democracy itself.

There have been a range of commentators and some of them are just seeking to achieve a certain degree of notoriety by their comments. Recently on 3AW the broadcaster Tom Elliott actually suggested that it was really time for a ‘benign dictatorship’ to make tough but necessary decisions. He went on to say that the problem was that we as voters have developed short attention spans and high expectations, that there is something wrong with us, that there is a fault in the body politic and this is a kind of solution. As we will see a little bit later, Elliott is not a lone voice in questioning the place of democracy and whether it is well enough equipped to deal with the challenges we face.

Slightly more thoughtful and nuanced analysis has come from the great journalist and historian of Australian politics, Paul Kelly, who has recently been asking similarly profound questions about whether or not the structure of politics and the way in which it is practised today is capable of addressing the challenges we face. His conclusion, a rather pessimistic one, is that there is something fundamentally broken that needs to be repaired and that this is a fractious polity that has fed in all sorts of ways into the practice of politics in this country which ill serves the national interest.

I don't think that in this there is any particular villain. I know that we like to find the person in the black hat, the single individual that can be blamed for all of this. Maybe some people become the apotheosis of a particular trend, but we need to think much more broadly. This is not about any political party or any political individual, it is rather about a larger set of questions that we need to address. One of the things I think we need to recognise is that we can set this question about the state of our democracy at the moment in a much longer narrative, which is to do with the way in which we tend to forget things, at least to forget their central purpose. One of the ideas I would like to put before you for consideration is that we are somewhere near the end of what might be called a long age of forgetting. A long period in which institutions that were established with great moments of insight which in a sense gave them their foundation, have been allowed to grow to develop all sorts of magnificent elements in their exterior and yet meanwhile the foundations, those insights that gave rise to them, have been forgotten.

Think about an institution like the market. At its most basic form, two people meet at a ford in a river, one is hungry, one is cold, one has wool, one has wheat and they exchange. Or think about certain institutions around the notion of justice, the idea that it just can't be right that because somebody is merely stronger than you they have the right to take from you the property that you otherwise have by right of your own hard work. These deep insights create the foundations for which institutions are built and yet when you surround them with doctrine and dogma and sometimes magnificent buildings of this kind, what lies at their heart is forgotten. Therefore when you see this long age of forgetting unfolding itself, what comes with this forgetting is an enhanced capacity to betray the very things that these institutions were designed to achieve or the interests that they were designed to serve. We see this in society from time to time with unfortunate frequency these days, where great institutions betray the very ideals for which they were established and are immediately perceived with justification by the wider public as being engaged in hypocritical conduct. When you experience hypocrisy, when you experience people who routinely look one way, go another, say one thing or do something else, the product of that hypocrisy is cynicism which acts as a kind of acid that eats away at the bonds of association within a community or weakens an institution. That is what I think we need to think about in terms of what is happening to our democracy today. One of the antidotes to this particular problem is to go back and to ask yourself, what are the fundamental purposes, what are the fundamental things we need to understand in relation to the institutions we care about and seek to see flourish.

What I would like to do now is to do some thinking afresh in terms of what democracy is actually about and why if you understand what democracy is it will help to explain why the

public, and those who are involved in political life, have reason to have concern. Understanding what it is begins to give a sense of why there is such an edge to the public debate about where we are today.

Some people think you can define democracy by a set of particular institutional arrangements. This great place, with the Senate and the House of Representatives at Parliament, for many people would seem to be an archetype of what you would expect to find within any functioning democracy, surrounded by things like free and fair elections and all of the panoply of what we would expect because of our experience of representative democracy in this country. So when we look abroad at other systems, if they have something like our institutional arrangements, we might conclude they too are democratic. If they have something different from us then we might question the kind of legitimacy of the democratic claim when it is made. But that is not how one should understand democracy. Different political systems are not in fact defined by the particular institutional arrangements that they make, but rather by a deeper philosophical distinction that occurs.

When I was working on democracy back at Magdalene College in Cambridge University, I argued that the best way to distinguish between political systems is by where the ultimate source of authority happens to lie. In a theocracy the ultimate source of authority is god. In an aristocracy traditionally it was in the virtuous, in a plutocracy the ultimate source of authority is with the wealthy, in a kleptocracy with those who can steal the most and so on. What we come to understand is that the thing that distinguishes a democracy from other kinds of 'ocracies' is that the ultimate source of authority lies in the persons of the governed. Or sometimes that is shorted to say the ultimate source of authority is in the people. When you understand that this is what democracy is then all sorts of things need to be thought through as a result of that.

The first of those things to understand is that there are certain limitations that apply in any kind of government or system that seeks to claim the legitimacy of being democratic. People look to democracy and they often claim it is the most legitimate form of government. To the extent that anybody wants to make that claim they need to know that when they do so it has to be bound by some constraints upon what they can and cannot do. For example, in a democracy where the source of authority is ultimately located in the persons of the governed, then the notion of them giving consent to be governed is absolutely essential. I just noticed in the display around the Magna Carta at the moment is a little excerpt from the proclamation from Edward I in 1295, when he said, calling the parliament together, 'that which touches all should be approved by all'. So this idea of consent runs very deep through this notion.

Of course in order to be able to give free, prior and informed consent, which we will come to in a moment, it is necessary that you be unconstrained in the way in which you actually come to give this. No one should be able to use any form of compulsion to shape the initial conditions from which you choose to give consent or not. So one of the problematic questions that you have when governments seek to use compulsion not to regulate your conduct, but how you might think, how you might form a view about what constitutes a good life, for example, is that this falls outside what should be licit within a democracy.

One of the problems I was looking at when I was doing my original research was whether or not it was consistent with democracy to introduce something like a compulsory national curriculum, in which a government would be able to determine what is the basic knowledge, what are the basic dispositions that all citizens should have and compel you to come and see the world in this way to some degree. I argued that it was illicit and self-defeating for a democracy to seek to impose such a thing because what they would start to do is not merely reflect the view of the good life but use compulsion to promote a view of the good life. You can't actually restrict access to the enabling goods that a citizen would need to draw upon in order to be a participant within the democratic polity.

I was in New Zealand talking to a senior official from their cabinet office and they had enacted laws which were effectively requiring doctors, for the sake of their patients, to engage in acts of conscientious objection. I won't go into the details of what they were doing, which was strictly prohibited, but it was the kind of thing that you ought to do for your patients if you were genuinely committed to their wellbeing as doctors typically are. This cabinet official, when challenged about this, said, 'oh well, actually there is no problem with this; we can do whatever we like because we have a democratic mandate. We were actually elected by the people'. Well this is nonsense. There are boundaries set by our Constitution that limit what you can do despite what you think might be your democratic mandate.

But at an even more fundamental level, there are boundaries as to what you could legitimately do, as a democracy. For example, you could not seek to have a percentage of your population in a perpetual state of ignorance, denied the opportunity of the basic good of education which would enable them to make informed decisions. You could not legitimately deny a section of your population access to reasonable health care, so that they are not well enough in order to be able to make meaningful choices in their lives. There are certain enabling goods which in a democracy ought to be available to you as a citizen so that you can discharge your responsibility or exercise your right to be this ultimate source of authority. This is one of the reasons when you look at the condition of Indigenous people, most recently disclosed in the latest report on progress, it is such a troubling thing. Apart from any concern you might have just at a human level, or with a regard for historical justice, this is just a million miles away from what you would expect from a democratic society and fortunately no one that I know of in this parliament says this is a good thing. They are just as troubled as I am by the gaps still yet to be closed.

You need to have a regard in a democracy to the fundamental equality of citizens, that everyone as a citizen ought to be regarded as equal, irrespective of where they live, irrespective of their age, their colour, their gender, all the other things that might be used to distinguish between people. They don't matter when it comes to the basic notion of being enrolled as a citizen. Because it is all based on this notion about the capacity to give consent, there are some people who may be judged to be too young to make free, prior and informed consent, which is why we have a qualification around the voting age and the movement into the full status of citizenship. But assuming you have that capacity to make such choices, then you are equal.

Now, of course, we have pockets of the population who are invisible or are only partially seen by the political apparatus. At the moment, party politics in Australia is focused on politicians having only a partial gaze when it comes to looking at the Australian public. So you are probably seen with much greater clarity and concern if you live in a marginal electorate than if you happen to live in an electorate where nothing much seems to swing on the nature of the vote. There will be certain pockets of the population who are judged to have greater influence, either because of their wealth, or their capacity to mobilise resources more generally. They may be seen with a greater degree of clarity amongst the political class than those who don't have that capacity to advance their political interests. I am not talking about government per se, but the machinery of politics, the action of it, says you necessarily notice some people more than others because that is part of the great contest to secure power. That in itself is deeply problematic for democracy.

The other great thing is that if it is the case that the ultimate source of authority lies in the persons of the governed and if that authority is expressed from time to time by the active expression of consent, then the quality of the consent becomes a critical question. The gold standard is free, prior and informed consent, and it is this notion of informed consent which has been such a subject of criticism in recent elections and in the general discussion about democracy. It cannot be an informed consent if it is ever based on a lie, a conscious or a moderate falsehood. The only way that you can exercise informed consent in a democracy is if those who are seeking to exercise public power through the result of an election are giving a truthful account of what it is that they propose to do. That they do so without guile, without dissembling, without the kind of qualification that has since been seen in notions such as core promises and non-core promises and all the things which offend a public which knows that they are being gamed by those rhetorical devices. At the moment, as we have seen, politics has got to a point where that truth has become so central, that those contending for power will actually make a virtue of their commitment to keeping promises and not making surprises and things of that kind. When coming to power they then suffer a much greater consequence when they are perceived to have looked one way, gone another, said one thing, and done something else.

I don't think that the people who do this are consciously engaging in hypocrisy any more than I think that bishops in churches who dealt with people subjected to child abuse woke up in the morning and said, 'look today what I would like to do before lunch is engage in a massive amount of hypocrisy in the way we are going to respond because when I go to bed tonight I would like to have a tide of cynicism surrounding this whole issue'. That is not what happens. Hypocrisy of this order is often not so much the product of a deliberate decision but instead it is a product of a kind of unthinking custom and practice which has become the norm. In fact if you go into almost any situation where something pretty unpleasant has happened, and you ask people what they were doing at the time, they will first of all look back and say, 'yes, gosh, I don't know how I happened to do this. This is terrible. I can see the effects of this'. But equally when you say, 'well what were you doing?', they will say, 'well everybody was doing it; that is just the way things were done around here'.

So we have the politicians with their partial gaze, with their temptation to claim that they have a mandate even though what they do might be at odds with democracy itself, and that will make a promise which they are happy to break or to redefine in some way and to pretend that it didn't happen. I am not suggesting that this is a deliberate thing. I think they too stand in thrall of a kind of unthinking custom and practice where if you talk to them about it they will say, 'well that's just the way politics is; the community understands this, they know when we say it, we don't really mean it'. We are all complicit as an electorate and as a political class in this basic failure within democracy. And those who believe that are wrong, because this is having a very profound effect on trust in not just politics, not just political parties, but in our political institutions.

Trust is a very interesting phenomenon, it actually pops up in the economics literature in quite an interesting way that helps give some sense of what we are wrestling with here. Although we focus a lot on trust, there is a larger question that we need to address, which is far more profound and that is to do with legitimacy. But let us just stick with the trust question at the moment. In this I would like to just pay acknowledgement to Giacomo Bianchino who helped me with some of the research around the statistics here. In economics one of the propositions is that high trust equals low cost and we all can imagine a simple example of this. If any one of us in this room now was to reach an agreement about doing something and we could do so on the basis that we can trust each other to follow through, it might just be as much or nothing more than the symbolic shaking of hands to say 'yes, I have agreed to do this' and you would expect that to follow on. That doesn't cost a lot to do, a handshake and an agreement that will be honoured. On the other hand, if there has been a history of mistrust, in which the agreements have been broken, what people typically do is they begin to increase the costs they are willing to bear in order to bring about the delivery of the promise or the agreement. They might think that there needs to be an extensive contract, an enforcement mechanism and a whole panoply of different devices, the expense of which has to be borne by the system as a whole to do this. High trust systems operate with very little cost. Low trust systems become very expensive to operate because we make allowance for the possibility that the commitments will not be honoured.

Well some of that is happening at the moment. There are very expensive mechanisms that are being put in place to try and deal with the breach-of-trust problem. In the state where I live, New South Wales, there is the Independent Commission Against Corruption, there is now a parliamentary ethics commission, or some equivalent term, and there are various checks and balances that are put in place. As recent events have shown involving the Labor and the Liberal parties in New South Wales, it is expenditure which is warranted because the evidence seems to suggest that the basis for trust has been eroded and the goodwill of the people has been betrayed. This is not just having effect in terms of the kind of costs, the hard costs that have to be borne, but also there is a cost that goes in terms of the robust character of our democratic polity.

The Lowy Institute poll from 2014 showed that around about 24 per cent of people think that autocracy might be a reasonable solution to dealing with the complex problems that our society faces. Remember the journalist or the broadcaster from 3AW? Time for a benign

dictatorship to make tough but necessary decisions? Twenty-four per cent of people think that. More troubling, is that only 42 per cent of 18 to 29 year olds who were surveyed in the Lowy Institute poll actually have a strong commitment to democracy. A majority do not. That is telling us something. I am not saying we should panic, it is not the end of the world, but that is a serious issue to contend with if only 42 per cent, a minority of people, have this very strong commitment. Now why do they lack commitment? Forty-five per cent of the respondents thought of the lack of distinction between the two principal political parties and their policies was one reason, and I will come to that in a moment as to what is happening inside politics, and particularly parties. Forty-two per cent claim that democracy was only serving the interests of a few, rather than the many, the fundamental proposition of democracy being betrayed by the way it was actually being practised. Other systems were believed to have a better chance of dealing with complexity while about 63 per cent of people just took democracy for granted. When you look at the poll yourself, either way this decline in trust in the institution of democracy and the system itself is not just something which has happened overnight, this level of engagement has been progressively declining and it should be a cause for concern.

One of the reasons this has been happening is that our system of public institutions is being infected by the demands and ambitions of private associations. What are those private associations? They are political parties. Let us not forget, political parties are entirely private associations that conduct their affairs in order to contest for public power. One of the very sad things I have seen in New South Wales is the activities of those private associations in which individuals, either for their own benefit or for the benefit of their party, have engaged in conduct of a kind which is calling into question our public institutions, the standing of our parliament, our democracy, and other associated institutions. That is a fundamental issue that we need to contend with. What do we do about the fact that private associations can have such a baleful effect upon our public institutions?

Parliaments do not belong to political parties and they do not belong to individual politicians; they belong to us, the citizens. They are ours for our benefit and to the extent that they are degraded by these private associations, the public good, the public weal is being eroded. Yet political parties clearly can play a useful role as they have within parliamentary systems for many centuries. Not necessarily with the same tight restrictions which are imposed here in Australia. If you look at the way Australian political parties operate in the parliament, they have a degree of discipline which is unknown in the rest of the parliamentary world. There is a far greater history of freedom and fluidity within political parties than you would see here with the operation of the whips. It does vary from party to party here but the general tendency is far more strict than is found to be useful in other places.

The other thing that has happened, is that politics has started to be more about the machine: how you run the machinery of politics, the machinery of gaining power rather than, as clearly as it used to be, having both a shared understanding of the purpose for which power is being sought or what restraint ought to be applied in terms of how it is gathered. In our work at the St James Ethics Centre quite a bit of effort goes into working with the Australian Defence Force, particularly in the area of pre-deployment for soldiers, sailors and airman who are

going to be put into places like Afghanistan, Iraq and other places where they will encounter the conditions of asymmetric warfare. One of the key elements that informs what we do is a very interesting statement from the Canadian philosopher, Michael Ignatieff, that the difference between a warrior and a barbarian is ethical restraint. I am not sure what the equivalent of warrior and barbarian is in the world of politics but the notion of ethical restraint becomes essential to how you go about the pursuit and exercise of power if you are not going to destroy the democratic institutions. If all you are thinking about is how most effectively to run the machine of politics without the kind of ideological grounding that makes it matter, then you get yourself into difficulties.

In the practice of politics we have lost some of the deeper human dimensions that used to unite people in earlier decades—certainly in the time that I have been alive. Recently Tom Uren died. He was a left-wing character but he had been on the Thai–Burma railway with Sir John Carrick of the Liberal Party, and like others of his generation had been through some truly awful experiences in war, including the tragic circumstances in which those people found themselves in places like Hellfire Pass. There was something that united their practice of politics which was deeper than just the contest that went for one party against another. It was impossible for these people not to know something of the deeply human experience that made democracy matter, that made the contest of ideas vital. It doesn't mean that they weren't combative, that they weren't committed to their causes but there was a deeper human level that informed them because of their shared experience. In fact I had the privilege of walking through Hellfire Pass about a year ago and as you listen to the audio that accompanies you, it is a really incredible experience to go there, to see this land terraformed by those prisoners of war and other people from the region who had been enslaved to do this. You hear both voices on that tape, you hear Uren and Carrick, and you think that was something about politics that it had a meaning and depth greater than just the contest, just the machine.

So what we find then is that you put these things together: a decline in trust brought about by the looseness with which the basic promise of democracy that you will be able to exercise informed consent is betrayed, machine politics, private associations contending for power in ways that destroy trust in not just those parties but public institutions, a lack of something deeper and more meaningful that informs those who come into the parliament and the shared experiences that can act as a kind of ballast—that ethical restraint I talked about. And you have an observable and somewhat precipitous decline in trust. But that is not what really matters. There is something far more significant that we stand on the precipice of. As I use words like precipice and precipitous decline, let me again say that I am talking here as an optimist, rather than a pessimist, as it might seem. I think there are ways back from this.

I was standing in the shower one day listening to the radio broadcast describing unfolding events in the deserts of Libya, where Muammar Gaddafi was hiding, and the last moments of his life were fast approaching, and I wondered what was it that Gaddafi lacked that put him hiding somewhere in the desert. Here was a man who had his armed forces, he had vast reserves of wealth, stockpiles of arms, mercenaries on hand for the buying and yet it was him who was hiding, not somebody else. What did he lack? And the thought that occurred to me



was that the one thing that he lacked was legitimacy. And the thought that became clear to me as I started to play around with this idea, which I put to you, is that although one can suffer and survive a lack of trust—because we will compensate in the way I described in economic terms by increasing the mechanisms by which we get by, even though we don't trust each other—what you cannot survive is a loss of legitimacy. Because the moment legitimacy is lost no one will deal with you irrespective of the cost. The loss of the very reason for your continuing to exist and to act means that you can no longer continue. You must vacate the field or you will be removed.

I think that at the moment there is a challenge in terms of the legitimacy of our democratic institutions including these private associations, the political parties, and the role of the political class itself. It is not something which can be sheeted home to any particular individual, certainly not at this particular time. There has been over a very long time a slowly rising tide of concern within the electorate. I mentioned the core promise/non-core promise and other things going back to the Labor and Liberal parties. Wherever you look you can find those who, a thimble at a time if you like, have been pouring some of the sludge into this tide that has been rising. The really bad luck for Tony Abbott—and it is partly bad luck and partly something of his own making—is to be there at the point when the tide was so high, and when he came in and made such a virtue of how he was going to keep his promises and how he was going to reverse the ethical slide which he depicted as having occurred under the Labor Party before, and it had. It is his bad fortune that people grasped on to that little straw that was flowing on the tide just before he tipped in the next thimble. He now inherits the consequence of that; he is almost the personal embodiment of that rising tide and what happens when it goes too far. Speculation about his personal fate, in terms of the prime ministership is beyond me; that is a matter for the Liberal Party to decide for itself.

When people look at results in elections like Victoria and Queensland and say 'oh well, it's a volatile electorate', or 'they don't really understand us', or 'if only we had better communicated', I think they are grossly underestimating the seriousness of the legitimacy of the political process to the political parties with their business-as-usual machine politics and the fact that the community itself, we citizens, are disengaging and looking other places for our own ways to deal with this. And we are simply not going to put up with it. Either it is going to be fixed or it is going to be broken and I am hoping it is going to be fixed.

Part of this problem of legitimacy is to do with the way in which political ideas are being expressed. You will have noticed it really doesn't matter what policy issue is being discussed in Australia today, ultimately it is only considered to be a good argument if it can be turned into some kind of expression of economic utility. Even as recently as two or three weeks ago, charities that had been established to try and work to end the scourge of child abuse felt it necessary to go to KPMG, or one of the other economic consulting firms, in order to have a document prepared to show that child abuse costs too much. Now you have to ask yourself what kind of society is it that doesn't think that it is enough to say that child abuse is just terrible, that it is wrong, and that it ought to be halted on its own terms. Why is it necessary to take that next step to say 'and also, it costs too much'? Well it is a kind of society that has probably lost confidence in the language of ethics, thinks there is too much contestability

about it, and believes the myth that somehow or other economics will provide an entirely disinterested and neutral basis for making decisions.

This way in which so often the ethical dimension in politics is only given a passing nod, but really what you need to know is that we have done the economic calculation, rankles within the community. It means that there is nothing more than simple economic utility that is seen to define the policy-making process. I do think that within Australia, despite our treatment of Indigenous people, despite the way that boat people are treated from time to time, despite all of that, there is an abiding sense in Australia that there needs to be fairness and an equitable society, that there is an ethical component to what we do. In each of those cases, whether it is to do with budgets, the treatment of boat people is not a plain black and white question. There are ethical arguments to be made on both sides that ought to be respected and engaged with. People of goodwill on both sides will have different principles which they bring to bear but too often we don't have that discussion, it is ultimately reduced to just saying, it is a matter of simple economic utility. I am not saying that we shouldn't think about economics. Of course we should. But if it is the knock-down argument for every policy case it has an effect upon our view about the legitimacy of our system.

So where does legitimacy actually come from? Well partly it comes from the willingness to take the consequences when you have to make very difficult public decisions. There is a wonderful literature which every politician, certainly every member of the executive should read, around an area in political philosophy called 'the problem of dirty hands'. The problem of dirty hands is to do with what happens when you may be called on to violate your own conscience for the sake of some public good. And one of the most powerful and perhaps provocative essays in this literature is by Michael Walzer who in an essay entitled 'The Problem of Dirty Hands' says what we expect from a person who defines their whole life to the commitment of human rights who then becomes an Attorney-General at a time when terrorists plant bombs in primary schools. The bombs are ticking away and the authorities catch one person from this particular cell of terrorists. They come to the Attorney-General and say: 'Attorney-General, we believe that if we could torture this person, we might save some of the children in order to preserve their lives but you must sign the paper'. Walzer's provocative argument is firstly that the Attorney-General should, for our own sakes, be a person who is so committed to human rights that if ever he was to sign that paper, he would be destroyed by this. He would never look at himself in the mirror ever again with any comfort, he would not sleep well at night; he would be destroyed. But, he says, such is his commitment to public service that he should sign the paper and thirdly, he says, he should insist on being punished for doing so.

Now the exercise of government, I am sure, frequently involves circumstances where people are brought into positions where they have to do things which they would not themselves choose to do. And it may even include from time to time breaking promises which they find themselves unable to keep. The difference at the moment in terms of the legitimacy of our democracy is that this seems to occur without the third step that Walzer argues—without a recognition that this is a serious moral problem in a democracy—that it should be done but I must be punished for doing so. So that it doesn't become the norm. And this, people would

rightly say, is an impossible standard. How can I stand here and expect people who are citizens volunteering to serve in politics to do this? I acknowledge it is a terrible cost. Such is also the case with ministerial responsibility where people will remember Winston Churchill's statement when Singapore fell. He said 'I did not know, I was not told, I should have asked'. In Australia you only hear 'I did not know, I was not told'.

These are burdens where you are going to be held to these impossible standards but we ask people to volunteer for the defence force and go and put their lives on the line with no certainty that they will escape being wounded or killed when they serve. I don't think we should trouble ourselves too much if people want to volunteer in politics for a lesser hazard where they may be held to these impossible standards. But it is a standard we must insist on because our Constitution requires that ministers be responsible and our democracy requires that if you have to break your word, and thereby undo the fundamental grounds for consent, then you must insist that you pay the price for doing so.

Now repairing this at the moment requires a few things. The problem of what constitutes legitimacy is very difficult. Some of it comes from tradition, some of it comes from the integrity of what you do, and I am thinking of tradition with the Magna Carta sitting up there and its 800th anniversary this year and what that tells us about the foundations of our system. Some of it comes from competence and one of the really interesting things in the debate about trust in Australia is how the notion of trust is being redefined in the political arena. It happened some years ago under an earlier government, where they said you can trust us to fix the tax system or trust us to do something. The rearticulation of trust, not about integrity, in terms of 'we will be what we say we do', but that 'we are competent', is a very interesting feature to see in our democracy. And of course, ultimately the legitimacy of democracy comes from consent and the quality of the consent.

Let me finish with a couple of things to do with possible areas of repair. Firstly I think there is a need to have another discussion about the role of the Australian Public Service in this country. I described to you how the political gaze is necessarily partial in these times. Unfortunately that partial gaze is progressively being introduced into the Australian Public Service, which must not have that partial gaze. The one bit of government which must see every single citizen, irrespective of where they live, what electorate they are in, whatever their condition, must be the Australian Public Service. We need to go back to Hawke and that other Keating, Mike Keating, who sought to realign the public service so that it served the interests of the government of the day, and have a really solid think about what arrangements we should be making for the Australian Public Service.

But the other thing I am going to finish off with is an idea that what we should do is look beyond the politics of political parties, look beyond particular institutions and instead try to develop a common ethical foundation for the way in which politics is practised in this country. It should be freely chosen, it should be a voluntary commitment but there should be something which no matter what political party you stand for, no matter what your ideology, no matter whether you are interested in machines or otherwise, you should promise to the Australian people as the ethical foundation for your pursuit of politics. I wrote this some

years ago and it is called, for want of a better title, ‘the politicians’ pledge’. What I hope to do is encourage every candidate in the forthcoming NSW election and then subsequently in federal elections to commit to something like this.

### **The politicians’ pledge**

As originally conceived, the practice of politics is intended to be a noble calling, the area in which a citizen might contribute to the establishment and maintenance of a good society. Yet, without voluntary, ethical restraint, the pursuit and exercise of power risks becoming personal, brutal and self-serving; coarsening the polity, bringing public institutions into disrepute and damaging the common weal.

So, consistent with the highest ideals of our profession, I promise that:

In the pursuit of power, I will:

Act in good conscience;

Enable informed decision-making by my fellow citizens;

Respect the intrinsic dignity of all;

Refrain from exploiting my rivals’ private failings for political gain; and

Act so as to merit the trust and respect of the community.

In the exercise of power, I will:

Respect the trust placed in me by the people through the ballot box;

Abide by the letter and spirit of the Constitution and uphold the rule of law;

Advance the public interest before any personal, sectarian or partisan interest;

Hold myself accountable for conduct for which I am responsible; and

Exercise the privilege and discharge the duties of public office with dignity, care and honour.

Rosemary Laing — Let me throw my titles in for the political equivalent of barbarian versus warrior: politician versus parliamentarian.

Simon Longstaff — The difference between a politician and a parliamentarian is ethical restraint.

Rosemary Laing — Ethical restraint, commitment to the ideals of the institution, to the Constitution and to service to the community.

Question — I think that young people have a really good sense of ethics and ethical foundations but I am concerned as you are that they are completely disconnected from the political system. I wondered if you had any thoughts on how young people and their good

sense of ethics can be reconnected back to the political system so that we can bring about this common ethical foundation that you have been talking about.

Simon Longstaff — Thank you for that. I agree very strongly with the first point you make, that younger people are brim-full with idealism, but often what they are lacking is hope, that it actually is possible to make a difference. And so the level of engagement that flows is they tend to work on things that they can control themselves in their own friendship group, smaller community things, or sometimes in an online way, where there is a dissipated influence. I see this as partly a product of the baby boomers too often telling younger people to be realistic. I hate being realistic. I am a pragmatic idealist: the triumph of optimism over experience! But I think you can be pragmatic and you can be idealistic. So part of what we need to do is to convince people that the better world we might hope to make as citizens doesn't always require grand gestures. More often than not, it is falling just slightly the right side of each question, and slowly the accumulation of those smaller decisions begins to effect change.

But to engage in politics is going to require a new model of citizen engagement and it is starting to happen. I was invited to north-eastern Victoria late last year. I went to Swan Hill and Yackandandah and over two days about 300 people ranging from about 12 years of age through to 80 came off their farms and out of their shops, to talk about their democracy. I believe that there is a capacity to provide a different scale of engagement which young people are just as likely to plug into because it provides a chance to do something which doesn't have to be huge but is big enough to make a difference. There were people there for example from the northern rivers of NSW who had invited me up, and Tony Windsor was the other person who was there to talk about democracy. Now I suspect that there may be small-scale community engagement which is going to be attractive and then for people to become involved in practical ways which they can afford with the time and resources they have.

Question — As a long-term resident of the ACT I have constantly felt under-represented. When I arrived in the ACT we had one federal member, Jim Fraser. If we are talking about a democracy how can we better change our model to remove some of the skews that are in our electorates in the way they are set up and the almost fundamental intent by certain political parties to continue to maintain the lack of representation in our federal parliament of a fairly vibrant well-resourced well-educated society like we have in Canberra?

Simon Longstaff — There is obviously a technical aspect to how you do that which I don't know the answer to, but the thing I take from your question is this very interesting idea that somehow the electorate always gets it wrong when it puts into the Senate a mixture of people. You see discussion now about how the big political parties, Liberal and Labor, could arrange the electoral system so as to have fewer minor parties elected to parliament. There is absolutely nothing wrong with our system as it is. The system allows us, if we wanted, to elect all of one party and none of another. It is to do with the attempt by those who control it, to tinker with it, to bring about the result that they would like to have, rather than one that will authentically represent the views of the public, as if the public is constantly getting it wrong. And I think if you keep doing that, it is going to be another issue that begins to call into question the legitimacy of the system. I think the consequence of not fixing the problem

which you put your finger on is potentially that it delegitimises that, it looks like it has been set up for everybody. And that is one of the things we would have to look at. But you can only answer that question, if you go back to the one I tried to pose, to understand the proper purpose of the institutions and particularly what democracy actually is. I wish I had a technical answer but I don't.

Question — Could you comment on caps on financial contributions in the context of your ethical analysis?

Simon Longstaff — I am an advocate of the public funding of elections. I would have a different model than the one that exists at the moment, in which there is a public pool, administered by someone like the Australian Electoral Commission, to which any citizen may make a donation and with a capped amount which can then be specified for the use of a particular party of their choice. I am not going to answer your question properly now as it is a very complicated and lengthy answer I would have to give to you but I am happy to share some information later if that would be helpful. I think that too often I see people argue in favour of wanting to support democracy, when what they want to do is support a partial interest and I think there are better ways to put that in place. So I am sorry that is an inadequate answer but what you ask is a very complex question.

Question — You had a lot of criticism for the major parties and I think it was quite justified. I was wondering what you thought about the minor parties and what they have done in recent times. If you look at the Democrats, they said they would 'keep the bastards honest', but often they would not allow the party that won at an election to enact their policies and kept them dishonest. You have got the Greens at the moment refusing to support indexation of petrol but that has been their policy for ever and a day so that is when the electorate gets very volatile and frustrated where even the minor parties are acting in a hypocritical fashion.

Simon Longstaff — I tried not to speak just about the major parties or any individual so it is my fault for not being clearer. The comments I was making applied to the political class and all parties. I think every one of them has played some role tipping a thimble at a time into the situation in which we find ourselves. It is to do partly with the game of politics. Sometimes it is based on a principled position; other times it is just political calculation. I think that all parties play the game as if it is all understood within the limited rules that take place here in the Senate and House of Representatives. It isn't. It bleeds out into the community at large. I believe there is a different kind of politics that can emerge which would be far better at serving the national interest and which would bail out some of this sludge but it is going to be very difficult. But it is only going to happen if politicians in every single party believe that they have a public duty to our democracy and the quality of our polity that comes before the duty to their party. All of them have got to say, we see what is happening here now, we have got to protect our democracy and that has a prior claim upon us.