
THE AUSTRALIAN

Shame shared by MPs for cost to investors caused by falsehoods

PETER PHELPS THE AUSTRALIAN 12:00AM December 1, 2017

A government that acts unjustly does not deserve its title. Nor should we condone a government that misleads its backbenchers.

In January 2014, my colleagues and I were recalled to parliament by then premier Barry O'Farrell to enact the Mining Amendment (ICAC Operations Jasper and Acacia) Bill 2014. It proposed to do what is usually anathema to a Liberal MP: it was to take away property rights without compensation.

Labor and the Greens, both socialistic in outlook, would have no qualms about doing so. The Liberal Party, however, is founded on the principle of property rights. We were assured this bill was an urgent and necessary development, based on information that came to light through the Independent Commission Against Corruption. It is worth examining the sly wording of the rationale used at the time when the main purpose of the proposed government bill was said to be:

“To cancel the Doyles Creek, Mt Penny and Glendon Brook exploration licences, in circumstances where the grant of those licences and the decisions and processes that culminated in the grant of those licences were tainted by serious corruption.”

But that was utterly untrue. There was no evidentiary proof the granting of the exploration licences to Cascade and NuCoal had been in any way corrupt. Indeed, ICAC had commended the bureaucrats who ran the awarding of these licences for their integrity.

NuCoal was granted its licence over Doyle's Creek only after a thorough series of probity audits, the last of which being an external audit commissioned by the government in August 2010.

Cascade was not even the original successful bidder for its licence and obtained it (as the next-best bidder) only when the winning company could not pay the \$25 million fee it had promised the state government.

Despite the absence of corroborating evidence, ICAC found that these awards amounted to corrupt conduct.

This week we learned that yet another of the supposedly “corrupt” individuals, Craig Ransley, has been found not guilty. This follows on from the Director of Public Prosecutions refusing to prosecute Andrew Poole because of a lack of evidence. The manifest injustice of the original ICAC findings is now becoming obvious.

In parliament last week, I outlined the role played by the secret interactions between the Premier and the ICAC commissioner. I did this because I am ashamed that my colleagues and I have been misled about the true circumstances of these cases, and that we were flim-flammed by the Premier into supporting a bill that took away the property rights of others.

Of course, we speak abstractly when we talk about “property rights”. In truth, my government has stolen the savings of hundreds of small investors and retirees on the basis of a falsity.

These were mum-and-dad investors who had their investments managed by medium-sized firms, that wanted to invest in Australia's future and were prepared to take a risk — especially in the case of the unproved coal reserves at Doyle's Creek. And we destroyed their investments.

There were also big investors. More particularly, big American investors who, under the free-trade agreement, had a reasonable expectation that their property would not be effectively taken by government fiat.

What will happen when the US government writes — as it inevitably will, given the amount of money at stake and the principle behind the action — to federal Trade Minister Steve Ciobo, seeking international arbitration on their claims? There are only two questions at stake: Was the property right voided? Yes. Was there reasonable ground for doing so? No. An open and shut case.

The Australian government will have to pay up. So US investors will get their money.

But what about the Australians? Nothing. Nothing, that is, unless the NSW government revisits the entire expropriation decision and acknowledges it for the fiasco it was.

Even though ICAC recommended that the licences be voided, it recommended that compensation be payable. So my government took a bad decision from ICAC and made it worse.

My colleagues who have looked into this are as ashamed of what has taken place as I am, and are just as stung by the revelation that we were led into being accomplices to the cancellations on the basis of falsehoods.

There is no doubt that the cost of compensation will be great. But that is beside the point.

If we have enough money to build stadiums, we can surely find the money to salve the wounds that we, as a government, have inflicted on innocent investors.

The wrong that has been done to the parties — including unjustified reputational damage to honest businessmen — has been far, far greater than mere monetary loss.

It is now time for justice to be done, and to be seen to be done.

Peter Phelps is a Liberal member of the NSW Legislative Council.

FROM THE HOMEPAGE

Premier slaps down deputy over PM ♦

ANDREW CLENNELL, RACHEL BAXENDALE

Gladys Berejiklian distances herself from her Nats deputy, John Barilaro, who called on Turnbull to resign | LISTEN



Bullet found ahead of by-election ♦

RICK MORTON

A bullet has been discovered at Barnaby Joyce's former primary school along with a warning of a shooting on December 2.



The next property hot spots ♦

BERNARD SALT

There are 20 areas that buyers need to look at if they want to get in on the ground floor of the next real estate boom.



Trump's gift to far right group ♦

JOHN SIMPSON

The far-right group Britain First boasts of a rise in support after Donald Trump shared anti-Muslim videos it had posted online.



An act of political bastardry ♦

PETER VAN ONSELEN

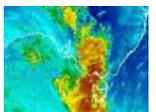
Calling for the PM's head on the eve of a crucial by-election is gutless and idiotic. John Barilaro is the one who should go.



Storms sweep into Victoria ♦

SIMONE FOX KOOB

A dozen people injured falling from ladders as they race to prepare for unprecedented Victorian storms.



Queensland Nickel chase Palmer ♦

SARAH ELKS

Clive Palmer could be pursued for contempt of court if he continues to shirk a court order to hand over financial documents.



Red dumped from ABC show

DANA MCCAULEY

Red Symons announces on air he's been dropped from his radio breakfast show. 'Why am I going? They haven't said.'



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