

Mike Baird's Frankenstein moment: commission turns on the NSW Liberals over donations scandal

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The timing could not have been worse for Mike Baird, but for his political opponents it was nothing short of exquisite.

On the day he was presenting himself for interviews to mark a year since the state election – and talk up the government's achievements – the NSW Electoral Commission dropped a bombshell.

Shortly after Baird had finished his media commitments, the commission spectacularly announced it was withholding \$4.4 million from the NSW Liberal party over non-disclosure of the identities of donors to its 2011 election campaign.

At the heart of the decision was the party's refusal to reveal who gave money to a federal fundraising body, the Free Enterprise Foundation, which in turn had donated almost \$700,000 to the Liberals.

At issue was the commission's finding - based on evidence previously given to the Independent Commission Against Corruption - that some of that money was from illegal donors such as property developers.

The revelation rather quickly spoiled Baird's planned anniversary celebrations on Thursday.

Worse, it completely undermined his determination to paint himself as the squeaky clean Premier who stepped into fix the rotten donations system after the NSW Liberals were dragged before ICAC in 2014's Operation Spicer into illegal fundraising.

The disclosure meant that at the very moment Baird was presenting his government as pristine on donations issue, it was being revealed that his own party was refusing to play ball with election funding authorities on the question of illegal campaign contributions.

The Liberal party and Baird have always expected the Free Enterprise Foundation issue to resurface eventually when ICAC tabled its report, findings and recommendations from Operation Spicer.

But the legal wrangling following the Margaret Cunneen saga meant the report was likely a long way from being delivered.

As well, the related High Court decision on ICAC's jurisdiction had raised expectations that its findings, when delivered, may not be as explosive as initially feared by the Liberals.

The NSW Electoral Commission's intervention has changed all that – thanks, it must be noted, to the NSW Liberal party's intransigence on the matter.

The questions that flow from all this include: what did Baird – who holds an ex-officio position on the NSW Liberal state executive – know about the matter?

Also in the spotlight is the commission's decision to highlight the role of then NSW Liberal finance director, now Turnbull government cabinet secretary, Senator Arthur Sinodinos.

The committee pointedly raised in its finding the evidence given to ICAC outlining the Senator's involvement in dealings between the party's finance committee, of which he was a member, and the Free Enterprise Foundation.

That has just created a major headache for Prime Minister Malcolm Turnbull on the eve of a federal election.

Those familiar with NSW political history will recognise the great irony here.

For many years the NSW electoral commission and Election Funding Authority have been regarded as toothless tigers, largely because they didn't have the resources to properly investigate breaches of donations laws.

That changed when Baird oversaw the abolition of the NSW election funding authority and had its functions incorporated into a new electoral commission as part of his overhaul of NSW campaign finance and lobbying laws.

The EFA was replaced by a new, three member NSW Electoral Commission panel with responsibility for the key legislation governing campaigning, funding and expenditure in state elections.

The change was a recommendation in 2013 of the joint NSW parliamentary committee on electoral matters.

When Baird introduced the legislation making the change, he noted the newly revamped commission would "have a clear mandate to institute criminal and civil proceedings for breaches of electoral laws".

Its chairman is the esteemed former president of the NSW Court of Appeal, Keith Mason, QC.

It is now crystal clear that the newly constituted authority will show neither fear nor favour in publicly shaming political parties - whether or not they are the party of government - over non-compliance with donations laws.

After years of donations scandals involving the major parties, that is a very good thing for NSW. Baird should be congratulated for making the change.

Unfortunately for him, though, in echoes of his predecessor Nick Greiner's notorious run-in with the body he established, ICAC, Baird's creation may have just done him significant political damage.

<http://www.smh.com.au/nsw/mike-bairds-frankenstein-moment-commission-turns-on-the-nsw-liberals-over-donations-scandal-20160323-gnq08v>