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Let's We Forget: Responsibility and the Archive Under Howard.
Grayson Cooke

> It is a question of the future, the question of the future itself, the question of a response, of a promise and of a responsibility for tomorrow. The archive: if we want to know what that will have meant, we will only know in times to come.
>
> Jacques Derrida, *Archive Fever*

There seems to have been a lot of responsibility taken lately, or refused, both here in Australia, and overseas. Recently, like many millions around the world, I was priveleged to hear U.S. President George Bush take responsibility for his government's failure to act during the Hurricane Katrina crisis. His exact words were, as reported on the White House official website: "Katrina exposed serious problems in our response capability at all levels of government and to the extent the federal government didn't fully do its job right, I take responsibility" (The White House).

Here in Australia, the Cornelia Rau affair, in which a mentally-ill resident of Australia was mistaken for an illegal immigrant and imprisoned for 10 months in the Baxter Detention Centre, and the Vivian Alvarez Solon affair, in which an Australian citizen was wrongly deported to the Phillipines, have exposed glaring holes in the Department of Immigration's procedures. Although the department has subsequently been forced to examine its procedures and conscience, such exposure has not, however, prompted Immigration Minister Amanda Vanstone or her predecessor Philip Ruddock to officially accept responsibility for their department's actions. Once the Palmer report concluded that DIMIA had in fact known back in 2001 that Alvarez was an Australian citizen, however, John Howard did find it expedient to issue an apology to Vivian Alvarez and Cornelia Rau ("The Lies").

Good on George Bush for owning up, we say, for admitting there was a problem, and for taking responsibility. Good on John Howard for apologising, something he has not, traditionally, been so quick to do. And shame, of course, on Amanda Vanstone and Philip Ruddock. But what does any of this really mean? How much of politics today revolves around vacillations between apologies that are either given or refused, or the taking of, or refusal to take, responsibility, and are these supposed options really any different?

In one sense, to take responsibility for something by uttering that momentous phrase, "I take responsibility", seems to be a perfect example of the performativity of language in action. Such a phrase would sit happily alongside other performative phrases such as "I apologise", or "I now pronounce you man and wife". As outlined by J.L. Austin, more than mere verbiage, these are doing words of the highest order, they are performative speech acts, they get something done merely by their pronouncement.

At the same time, however, it is worth asking what exactly is accomplished when such phrases are uttered, and is what is said really the same as what is accomplished? Of what

does a Governmental apology consist? On top of the act performed in the statement itself, we can also assume that taking responsibility for something usually implies a subsequent act of contrition – to take responsibility opens up the likelihood that, at some point in the future, down the track, some act will be performed that will reflect the contrition of the party that has taken responsibility. Reparation or amends will be made, in the long term; the verbal apology will be matched by an active apology, an act *of* apology. Of course, like most other performatives, apologies can be given, and responsibility taken, only by those with the power to do so, and this power necessarily implies the power to act on the sentiment expressed; context and "persona" or "role" are crucial here. Who better, then, than a democratically elected government to take responsibility or issue the apology, a government gifted with the power to speak for, and act for, its nation?

All of this assumes, however, that the one (or many) who apologizes or takes responsibility means what they say, that is, that they are sincere in expressing their "intentions", and that their intentions are singular and clear. Obviously, questions of sincerity can always negate the performance of a performative. One can always apologize in bad faith, without really meaning it, just to keep things moving, to avert disaster and facilitate reparation, or, what is more sinister, facilitate the appearance of reparation. One can mouth the conventions of apology without really meaning it, and in so doing, get oneself off the hook. And sometimes this insincerity will be evident, and the insincerity of the performative will effectively negate the performance of the act the utterance describes. However, this is not always the case. Apologies are frequently, and especially in environments in which the apology will be amplified by some media or reporting apparatus, strategic as much as they are performative, and they function as 'intended' regardless of the presence or lack of sincerity. This raises the irony, however, of an insincere apology that nevertheless works just as well as a sincere one. Intention is always split within itself, and it is not the same as "meaning to say" – it is always possible to intend one thing while saying another, and in so doing keep one's intentions secret. In one sense this is an utterance which is simultaneously performative and non-performative – but from another perspective the existence of this irony serves to put into question all apparently performative utterances. *Is* there such a thing as an apology *as such*, an apology free of all conniving, all calculation? *Can* one really and truly take responsibility, especially if one is a President or Prime Minister?

In another sense, then, taking responsibility and apologizing is a matter of memory and forgetting, and therefore of the archive. Statements regarding apologies or the taking of responsibility are frequently uttered in order that they enter the public record as an act, that they are set down and disseminated by the media in order that all can recognize that something has been said and done, regardless of "intention", which must remain always in abeyance, always secret. Such statements, and the specific acts they apparently convey, are an issue for the archive. Likewise, refusals to apologise or accept responsibility are refusals to allow a certain interpretation of events to enter the archive, and further, they are disputes regarding the very content and dissemination of the archive. This is especially the case given that refusals to apologise or accept responsibility so frequently occur in the context of a statement of ignorance: "I didn't know, so how can I be at fault?

How can I apologise when I didn't know I was wrong? We thought we were doing what was best – for the children!"

The ability to claim ignorance has become one of the most powerful weapons in the Australian political landscape, and it rests on a complex apparatus of secrecy, whereby the fundamental rule is, "don't tell the Prime Minister". At the core of this apparatus is the very question, or questionability, of the archive, that is, a record of "what happened", including a date and time. Is there an archive or is there not, and if so, how secret is it, and how is this secrecy built into its strategic function? Which is to say, does the contemporary archive in fact function by remaining invisible?

Jacques Derrida has written extensively on the archive, and on responsibility. In *Archive Fever*, Derrida undertakes a lengthy exposition of the various facets of the archive, beginning with the beginning, with the *arkh*□, with government. A later term, *archeion*, refers to the storehouse of official records, which is also the home of the ruler, the *archon* (*Archive Fever* 1-2). The letters of the law are stored in the house of the ruler, and the *arkh*□ governs by both spatial and legal principles, it wields a power that is both topological and nomological. The archive, then, has not merely to do with writing and recording and individual memory. It has to do with the writing of law and the grouping or gathering of social memory, the control of these writings and these recordings, and their interpretation and dissemination; the archive is a matter of *justice*. As Derrida states, "[t]here is no political power without control of the archive, if not of memory. Effective democratization can always be measured by this essential criterion: the participation in and the access to the archive, its constitution, and its interpretation" (*Archive Fever* 4). If the archive typifies the writing of the law, it is access to the archive, which is generally understood in Federal law as Freedom of Information, and the degree of hermeneutic freedom conditioning this access, that determines the nature and public experience of the law, and thus also of democracy.

Although Derrida's explications of the archive have a relevance to global politics in general, they seem particularly prescient today, as the eyes of the world flick between occurrences in Iraq and the machinations of the United States and the Bush regime. In 2003, the U.S' declaration of "war" against Saddam Hussein rested solely on a certain interpretation of a certain archive, that was nevertheless secret, hidden, barred from public access and highly open to interpretation. It is now generally accepted that that particular archive, or rather particular contents of that particular archive, was a fabrication. It is not merely that there were no weapons of mass destruction, and thus that statements regarding their existence were false; it is that *records* indicating the existence of weapons of mass destruction were also false, raising the complex question of whether the interpretation of these false records, stored as they were in an archive of fabrications, was also false and thus an act of falsification, or whether it must still be considered in some way "true". All that continues to happen in the Middle East happens as an after-shock to this difficult and fundamentally contradictory hermeneutic moment, which *stood* as the expression of a globalizing liberal democracy and yet which *stands*, now, as firstly, the spectre of democracy, the shadow of something that will always be there by not being

there at all, and secondly, as the symbol of an archive that is also always strategic, a diversionary tactic. In the contemporary scene, the archive is politics by other means.

Similarly, since the Tampa and Children Overboard affairs in 2001, the Howard government has survived a number of scandals through successfully claiming ignorance of "what happened", despite the fact that information always emerges – later on, of course, after the denial and once the public has had time to largely forget – suggesting that some strata of the Government did indeed know "what happened". In June 2004, the key question concerned what and when the Howard Government knew of the Iraqi Abu Ghraib prisoner abuse allegations as well as allegations of the abuse of Australian prisoners David Hicks and Mamdouh Habib in Guantanamo Bay. Margo Kingston describes the logic well:

> Last week, a Senate inquiry discovered that Hicks had told ASIO a year ago that he had suffered beatings at the hands of the Americans. Will Howard resign? No. He hadn't been told. Would the head of ASIO resign for not advising Howard he was wrong? No. On what basis did Howard make his false claim? He probably didn't ask for a brief, but assumed what suited him because he hadn't been told otherwise. Why not? Because the public service knew Howard wanted to create no waves with the Americans so they didn't tell. Easy, isn't it? ("Circle of Self-Interest")

More recently, the Australian Wheat Board (AWB) scandal in which the AWB gave "kickbacks" to Saddam Hussein's regime via the fiction of transport fees to a fabricated trucking firm, has again required the Government's ability to deny knowledge of wrongdoing and thus to abdicate responsibility. Early in 2006, when the Cole inquiry questioned Deputy Prime Minister and Trade Minister Mark Vaile about his knowledge of the kickbacks, his ability to deny knowledge was paramount:

> In January 2000, Mr Vaile's office received a now-infamous cable from Bronte Moules, a DFAT officer in Australia's UN mission in New York, warning that the UN was concerned about allegations from Canada that AWB was paying kickbacks and wanted the Australian Government to investigate. Mr Vaile said he had not been shown the message by his staff. (Silkstone)

How is this possible? One would assume that it is the responsibility of a government minister to be aware of issues relevant to their portfolio, and to ensure the carriage of these issues to Parliament (Kingston "Downer Joins Vanstone"). And we would assume that Canada and the UN's reservations about AWB were relevant to the Trade portfolio.

The responsibilities of a minister are laid out in the document "A Guide on Key Elements of Ministerial Responsibility", available from the website of the office of Prime Minister and Cabinet (Prime Minister "A Guide"). There are a number of dimensions to ministerial responsibility.

> Under the Australian system of representative government, ministers are responsible to Parliament. This does not involve ministers in individual liability for every action of public servants or even personal staff. It does however imply that ministers accept two major responsibilities: first for the overall administration of their portfolios, both in terms of policy and management; and secondly for carriage in the Parliament of their accountability obligations to that institution. (Prime Minister 1)
>
> Ministers must be honest in their public dealings and must not intentionally mislead the Parliament or the public. Any misconception caused inadvertently should be corrected at the earliest opportunity. (ibid 10)
>
> [M]inisters cannot delegate to members of their personal staff their constitutional, legal or accountability responsibilities. Ministers therefore need to make careful judgement about the extent to which they authorize staff to act on their behalf on dealings with departments. (ibid 14)

When questioned during the Cole Inquiry, however, Mark Vaile, Alexander Downer and John Howard collectively presented a quite different picture. Mark Vaile revealed the extent of his knowledge regarding the criteria governing what ministerial cables would be brought to his attention:

> Agius: Do you know what criteria are applied in determining whether particular cables will be the subject of a ministerial submission?
> Vaile: Within the department? No.
> Agius: Who determines that?
> Vaile: Well, I would imagine the relevant departmental officer at a particular level.
> Agius: And you have never had cause to investigate that?
> Vaile: No. (Australian Government Attorney General's Department, "Inquiry: 10th April 2006" 6435)

In a similar vein, when questioned about the process his department has for recording what the minister is or is not made aware of, Foreign Affairs Minister Alexander Downer revealed that no system is maintained that records what he is told:

> Agius: … Was there any system maintained within your office which recorded which cables were brought to your attention and which were not?
> Downer: No, we don't have a system that does that. (Australian Government Attorney General's Department, "Inquiry: 11th April 2006" 6563)

To top it off, like Mark Vaile, the Prime Minister was unaware of the strictures governing how information actually reaches him, and like Alexander Downer, no records were maintained regarding what he saw or did not see:

> Agius: … Were there any formal criteria laid down which indicated the basis on which documents ought to be brought to your attention?
> Howard: No, there weren't. (Australian Government Attorney General's Department, "Inquiry: 13th April 2006" 6635)
>
> Agius: Was there any record maintained in your office at that time as to which cables were drawn to your attention and which were not - a written record?
> Howard: No, I believe a written record began to be kept sometime in 2003. (ibid 6639)

Let us be perfectly clear on this. Neither the Prime Minister nor two of his most senior ministers are aware of, or in control of, the process by which information reaches them; they have people who no doubt have people to take care of this process, and these people assume these people will exercise "judgement" as to what is relevant for the minister to see, and thus to know. Furthermore, until Howard's office appears to realize there is a problem in 2003, conveniently *after* the bulk of the documents regarding AWB's actions have been circulated, the distinction between what is seen and what is not seen is not recorded; no record of what the relevant minister or Prime Minister knows is kept. *Nobody knows what anybody else actually knows*.

On one hand, if this is true; if none of these ministers has any hand in determining what information comes to them and what doesn't because this function has been outsourced to some functionary down the public servant hierarchy, and if no distinction is made between what is known and what is not known, then surely these ministers are guilty of abdicating their responsibility as ministers, because they have ensured that there is no way of assessing whether all or indeed any information potentially relevant to their portfolio has passed before them. This would not seem to conform to the injunction that ministers make "careful judgement about the extent to which they authorize staff to act on their behalf on dealings with departments". On the other hand, if this is not true; if they are in fact lying, and there *are* strictures laid down regarding what can be told to the minister and what cannot, and there *are* records kept regarding what they are told and what they are not told, then again, surely they are guilty of abdicating their responsibility as ministers because they have clearly ensured that certain information does not reach their desks, *and* they've misled a Royal Commission, and by extension the public. This, too would contravene the injunction that Ministers make "careful judgement about the extent to which they authorize staff to act on their behalf on dealings with departments", and that they must "be honest in their public dealings and must not intentionally mislead the Parliament or the public".

When Derrida discusses the archive, one of his key points is that the contents of the archive are determined by the technical form of the substrate.

> [T]he archive, as printing, writing, prosthesis, or hypomnesic technique in general is not only the place for stocking and for conserving an archivable content of the past which would exist in any case, such as, without the archive, one still believes it was or will have been. No, the technical structure of the *archiving* archive also determines the structure of the archivable content even in its very coming into existence and in its relationship to the future. The archivization produces as much as it records the event. (*Archive Fever* 17)

If we take "technical" to mean not merely the physical or electronic system of storage but the 'archontic' dictums governing storage and retrieval, we can see that the archive under the Howard Government is *not* a system of information storage and retrieval, that is of memory, but is in fact an intricate system of forgetting, an infinite *quarantine* and an *anarchivization* of the archive. This governmental archive can have nothing to do with recording in the name of some future revelation; this archive can only exist in order to never be revealed, to never give up its secret. What this also means is that this government reserves the right, at any time and regarding any matter, to know nothing. Within this scenario, the question of whether a Government takes or refuses to take responsibility becomes increasingly meaningless, because the government has ensured that it could never have been responsible in the first place. Responsibility as a concept receives an extremely narrow rendering in this scenario; any question of a broad responsibility, a responsibility to the public as such and to the notion of democratic governance, is here overcoded by the narrow definition of responsibility as an orientation towards what a minister can know. Given that what a minister knows is now conditioned by the technology of an archive that remains eternally secret, it is easy to see how a government can be responsible to itself, to the secret it has built and jealously shelters within itself, while being completely irresponsible towards the public it serves.

Despite the proliferation of "intelligence" and information, and mechanisms for retrieving and storing this information, or perhaps as a *function* of this proliferation, the contemporary governmental archive serves more as a means of obfuscation than of revelation – what is stored is done so under ever tighter strictures, and the fact of some information or an event's having entered the archive says nothing about its future potential to be pulled from the archive and re-animated. The to-come of the archive, that virtual moment in which the archive will be put to use, is more a matter of a future moment when the archive will fail to give up its secret, or will turn out to have been false anyway.

The ongoing battle between FOI editor of *The Australian* newspaper, Michael McKinnon, and Federal Treasurer Peter Costello proves a similar point. Since 2002, on the grounds of Freedom of Information McKinnon has sought access to documents relating to income-tax bracket-creep and the rorting of the First Home Owner's Grant

Scheme. Peter Costello has withheld access to these documents on the grounds that their release would not be in "the public interest". Indeed, he has signed "conclusive certificates" outlining the reasons why disclosure of these documents would not be in the public interest, that is, would not be responsible, despite the fact that the documents were produced by taxpayer-funded public servants researching issues pertaining to taxpayers themselves.

> Whenever the Treasurer wants to avoid disclosure, he can sign a "conclusive certificate" saying that disclosure is against the public interest. The right of appeal is limited. The tribunal, or a court on appeal, cannot remove the certificate; it can decide only that in its opinion, it is unreasonable and recommend its lifting. The Treasurer can reject this in a statement tabled in Parliament - but Parliament, in adopting the FOI Act, has never fulfilled its own function of then debating the matter. (Canberra Times).

McKinnon's case has so far been lost at both the Administrative Appeals Tribunal and the Federal Court, however, it has now progressed to the High Court, where Justice Michael Kirby has expressed incredulity that, in an "open democracy with freedom of expression", the disclosure of such innocuous documents could be refused in the name of protecting the public interest. He further noted that the Treasury appeared to have "a culture which is antithetical to the FOI Act" (Hart). What we witness, here, is the emergence of a paradox in which all that is understood by the concept of Freedom of Information can be negated by reference to the malleable notion of public interest, regardless that the public interest may also in fact be served by the disclosure of this information. Again, the archive exists not to record what is past and present and to thus instantiate some kind of future revelation, but to record and thence obfuscate the future. In the hands of Peter Costello, and by extension the Howard Government, freedom *from* information is the bastard child and supplement of freedom *of* information, and again, the government is able to act responsibly by not acting responsibly.

What is really interesting about both the AWB scandal and McKinnon's FOI case is that, on the surface at least, the Howard government seems to give us an experience of the aporia of responsibility as it is understood in deconstructive thought. In *The Gift of Death*, Jacques Derrida presents two seemingly contradictory notions of responsibility: firstly, a general, public, human responsibility towards ethics and other people; and secondly, a personal, singular and inner responsibility, an absolute responsibility, often understood as a responsibility towards God, the *mysterium tremendum* that speaks only of sacrifice and secrecy. Responsibility in one sense necessarily implies irresponsibility towards the other; this is the aporia of responsibility, that responsibility can never be done, that it always remains to be done, it always exceeds its accession.

Derrida discusses the Biblical story of Abraham in this context. Abraham, asked by God to sacrifice his only son Isaac, betrays ethics, love and familial responsibility in the name of an absolute duty, about which he must keep silent, and about which he can *only* keep

silent because this duty is not known to him, this is the duty God commands of him, unspeakingly.

> Such a silence takes over his whole discourse. So he speaks and doesn't speak. He responds without responding. He responds and doesn't respond. He responds indirectly. He speaks in order not to say anything about the essential thing that he must keep secret. Speaking in order not to say anything is always the best technique for keeping a secret. (Derrida, *Gift of Death* 59)

Is this silence not the silence of ministers Vanstone, Ruddock, Downer, Vaile, and Howard? Is this silence not the silence of Costello, the silent working of the mechanism that ensures that Freedom of Information will never mean *freedom* of information? Is this *technique* for speaking without saying anything not the mechanism that lies at the heart of the governmental archive, the archive with its intricate system of secrets, created to ensure that it is always possible to speak without saying anything because one does not know what one does not know?

If this is the case, are these ministers not, then, *just*? Administrators of a higher calling, called by a duty greater than the mundane responsibilities of democratic governance? For a number of reasons, no. While Derrida goes to great lengths to emphasize that being responsible towards one thing or other always requires that one is irresponsible towards another, every other, and that therefore every other is absolutely other, he notes also that questions of an absolute duty, a secret duty, or a responsibility towards God occur primarily within a mercantile and mercenary economy, an economy of thanks and of reward, which undermines any possibility of "absolution".

> It is a matter of unfolding the mystagogical hypocrisy of a secret, putting on trial a fabricated mystery, a contract that has a secret clause, namely, that, seeing in secret, God will pay back infinitely more; a secret that we accept all the more easily since God remains the witness of every secret. He shares and he *knows*. We have to *believe* that he knows. This knowledge at the same time founds and destroys the Christian concepts of responsibility and justice and their "object." (*Gift of Death* 112)

God, he who sees in secret, he who requires secrecy of his adherents, is the necessary byproduct and legitimizing figure of a calculation that, like the archive under Howard, can only ever be strategic and can only ever be grounded on the promise and the reward. Of what do governments dream, that they are willing to align themselves around a secret into which all remembering falls? A number of things no doubt, depending on their constitution and their political and economic alliances, but chiefly, and especially if near the end of an electoral term, re-election. Ideally, a re-election unsullied by the ghosts of past indiscretions. When George Bush takes responsibility for his government's failure to act quickly during the Hurricane Katrina crisis, he does so for a number of reasons. Firstly, and obviously, because they *were* responsible, but also because this is a

significant issue, this is a voting issue; failure to quell public ill-feeling here could result in a blemish on his record that may be difficult to remove come election day. Likewise, if the Howard Government goes to such great lengths to ensure that at any moment they have ignorance to call on as a plausible means by which to deny any wrongdoing or knowledge of wrongdoing, they do so to ensure that no blemishes exist on the record that might hinder their chances in an election.

I use the word "blemish" intentionally; it is the term Howard has used, repeatedly, to refer to the violence that characterized relations between Indigenous Australians and European settlers during Invasion (it is possible that Howard did not use the term "Invasion", however). No discussion of the Howard government's relation to responsibility and apologies can be conducted without referring, implicitly or explicitly, to this "blemish", the acknowledgement and naming of which stands in for the governmental apology that is yet forthcoming. Howard first used this term in his opening speech at the Reconciliation Convention in 1997: "[T]he treatment accorded to many indigenous Australians over a significant period of European settlement represents the most blemished chapter in our history" (Howard). This same phrase was later employed in the Motion of Reconciliation Howard tabled in Parliament in 1999 (Prime Minister "Motion of Reconciliation"). Having already tried out the notion of "flaws" in Australian history but found it wanting, Howard eventually settled on the term "blemish" to encapsulate all that he was willing to say about his relation to Australia's past (Brett 39).

But what does it mean, that Australia has a blemished chapter in its history? Judith Brett provides a fascinating reading of the use of this term, reading it as a signifier of Howard's less conscious feelings about the past.

> Blemishes are most often found not on histories but on skins and reputations. A smooth, fair cheek can be blemished by a small birthmark or a too-dark freckle; a reputation can be blemished by a minor indiscretion or uncharacteristic lapse of judgement. In choosing 'blemish' it seems to me Howard reveals the repressed thoughts the word is designed to deny – the role that skin colours played and continue to play in Australia's history. (Brett 39)

For Brett, the dark secret in Howard's make-up is the unconscionable desire that if only Australia really had been *terra nullius* when Europeans arrived, then Australia wouldn't have this blemish on its past, a blemish further blackened by the skin colour of the people who were found here (Brett 39). It is a seductive critique – difficult to move beyond speculation, impossible to prove, but no less elegant for this. In the context of discussions about the archive, however, I want to stress the more obvious interpretation. Reputations and histories are both issues of the archive and of public memory; they are a matter of statements and acts that have been recorded, that have left an indelible mark in archives governmental and organisational and in the minds of citizens. For Howard, the terrible thing about this blemish is that it *is* on the record, it is his archival inheritance, and no amount of rhetorical quibbling or conservative historical revisioning can change this.

This blemish pre-dates him, it exists under strictures far removed from the plausible deniability and limited notion of responsibility the Howard government has worked so assiduously to install at the heart of the governmental archive.

Howard cannot say sorry because it would require admitting to a notion of responsibility that his government cannot afford to subscribe to; a responsibility that refuses the secret structuring of absolute duty. While the archive remains a tool in the avoidance of responsibility, no apology can be made, or heard, or remembered.

In the midst of this frenzy of forgetting, however, let us see if we, and the archive, can remember one thing: governments and ministers are responsible *for* themselves and their actions, but they are also responsible *to* their citizens. This distinction is crucial, because in the absence of God and the calculations of absolute duty, we are left with a more real, because solely human, aporia of responsibility. Howard was not responsible for the actions of his European forebears, but he remains responsible for his government and their actions and inactions, and to his citizens, to all of us, those here and now and those yet to come. Between responsibility for, and responsibility to, all decisions, and all apologies, must be made.

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