The politics of the AWU story have sucked up all the available oxygen. Employment Minister Michaelia Cash gets the new Registered Organisations Commission to investigate donations made a decade ago by Bill Shorten's old union, the AWU, to the ALP and GetUp, as part of the government's endless campaign to convince us that Shorten is a crook. The ROC sends the Federal Police to raid the AWU’s offices, and the media just happen to be waiting outside.

As we’ve come to expect, the government within hours moves from cunning plan to self-inflicted disaster, as Cash misleads Parliament by insisting her office knew nothing of the raid, when it was her office that tipped off the media. Meanwhile, the AWU heads to the Federal Court seeking to have the whole charade declared to be, in legal terms, a charade. The media is overcome with excitement and Shorten happily wonders, again, what he ever did to deserve Malcolm Turnbull.

The question the media isn’t asking amid all this frenzy is an obvious one: if the Australian Federal Police is sending 30 officers to raid a union’s premises, what is the crime they are investigating? Because, unless you’re living in a police state, the involvement of police means there must be a hint of a crime.

So let's find out. The ROC’s ostensible remit is to regulate unions and other non-corporate bodies, to make sure they are held to the same level of legal account as normal companies are by ASIC (just kidding). Its powers originate in the *Fair Work (Registered Organisations) Act*.

Section 331(1) gives the ROC power to conduct investigations into various things to do with the governance of unions, such as contraventions of record-keeping requirements. From what the ROC has said, its investigation of the AWU is proceeding under s331(1)(d), as an investigation of
whether the union contravened its own internal rules when it made the donations to the ALP and GetUp.

So, yes, the pile of poo that is causing the fire that is creating all the smoke that is consuming the media and potentially Cash’s career, is the allegation that a trade union broke its own rules. Not the law; just its own rules.

As it investigates, the ROC has wide powers to require people to hand over documents and information. It could have invoked this power to say to the AWU, like, “Hey, can you give us everything you’ve got in relation to that $100,000 you gave to GetUp in 2006?” The AWU says that, if they’d been asked, they’d have replied, “Sure, knock yourselves out.”

But that didn’t happen. The ROC chose to invoke a different power, the one that allows it to ask a magistrate to issue a search warrant, and then get the AFP to execute it. And that’s how 30 cops came to be knocking on the AWU’s door.

Two legal questions arise. First, why send in the feds, as opposed to just asking politely, or even asking impolitely? The ROC has been implying that it had grounds for suspecting that the documents it wanted might be headed for the shredder. However, that’s just speculation; we don’t know what they told the magistrate to get the warrant, and the act only requires the magistrate to be satisfied that the target of the warrant is reasonably suspected of possessing the documents sought by the ROC.

What it really looks like is a regulator going completely over the top, deploying a very large gorilla to go and collect a bunch of bananas from the IGA, rather than just ordering them online like normal people.

Secondly, what is the deal here? Assume the ROC’s darkest suspicions are realised by its investigation. The outcome will be a determination that the AWU, over a decade ago, made a perfectly legal donation to GetUp, but failed before it did so to tick the boxes, which its own internal rules required. Not a crime. On the global scale of wrongdoing, it sits just below accidentally putting pepper in the salt shaker.

I can’t even be bothered finding a punchline. This is beyond ridiculous.