

Politician, do in thyself: Christian Porter's batshit crazy idea to tackle federal corruption

Standing next to any state anti-corruption body, the powers and reach of the federal government's proposed Commonwealth Integrity Commission are deeply, deeply embarrassing.



The Morrison government's 363-page draft law to create a Commonwealth Integrity Commission (CIC) is finally out, almost a year after Attorney-General Christian Porter received it from his department. Must've been a lot of typos.

Porter also announced there would be a leisurely six months of consultations on the bill, ostensibly because it's all so hard, kicking the can so far down the road that it's unlikely to turn into an actual law before the next election. One really gets a sense of urgency from the government on this.

The draft bill is massive, but let's apply a simple test to its provisions — how, if at all, would it deal with these random specks of federal dirt:

Angus Taylor and the allegedly doctored Sydney Council document Bridget McKenzie and the sports rorts affair Alan Tudge's imprisonment of an asylum seeker in defiance of court orders (And if she'd been a federal minister) Gladys Berejiklian's non-intimate relationship with Daryl Maguire.

The first question is how an allegation of corrupt conduct can get in front of the CIC. Well, when the person who committed that conduct is a member of federal Parliament, the only person who has the legal power to refer the allegation to the CIC is — wait for it — that member of parliament.

Nobody else — including other MPs — can do so. The CIC itself has no power to institute an investigation in these circumstances.

But that's not all. The MP who is considering referring themselves to the commission for investigation can only do so if they reasonably suspect that they have committed an offence relating to the corrupt conduct.

The bill makes it explicitly clear that, for the CIC's purposes, an MP's conduct can only be defined as "corrupt" if it involves abuse of their position or perverting the course of justice, and it constitutes a "listed offence". The list is quite long, and includes things like theft of Commonwealth property, bribery and fraud, so that's fine.

However, we are a million miles short of the sort of jurisdictional reach that other anti-corruption bodies like ICAC have. Berejiklian's boyfriend Maguire is squarely in the ICAC trap over his admitted serial misuse of his office for personal gain. If it were to turn out that he was in an "intimate" relationship with Berejiklian, then she'd be within ICAC's reach as well.

Translating that scenario to the CIC context (assuming they were both federal MPs), Maguire could only have become the subject of investigation if he had come to the view that he had probably committed a crime while also abusing his office, and decided he should refer himself for investigation. Berejiklian likewise.

The same would apply to Taylor, McKenzie and Tudge. In Tudge's case, the conduct [of which he has been accused](#) by a Federal Court judge (wrongful imprisonment, possibly kidnapping and possibly a criminal contempt of court) is not a listed offence, so he couldn't refer himself to the CIC even if he considered that his flagrant disobedience of the AAT and Federal Court was a perversion of the course of justice.

But let's say an MP does refer themselves to CIC, having personally concluded that they've been corrupt or committed a crime. Before the integrity commissioner can investigate the matter, he or she must also reasonably suspect that the relevant criminal offence has been committed. Mere corruption is not enough.

If the investigation proceeds, it is done in secret. If there is a hearing, it is done in private. If the CIC finds that the member of parliament has engaged in corrupt conduct, it cannot include that finding in its report. All it can do is refer the evidence it's collected to the relevant authorities for potential criminal prosecution.

And that, so far as members of federal Parliament are concerned, is that. Rather a long way around for what could have been just sent to the cops in the first place.

The comparison between this proposal and ICAC (or any other state's equivalent) is embarrassing. It is more than obvious that there is no intention on the government's part to push MPs towards the risk of public exposure or even prosecution if they are corrupt.

The CIC bill deals a harsher hand for Commonwealth public servants (although they too are protected from publicly known adverse findings) and law enforcement officials. However, it is only the latter who are made subject to public hearings.

There is much to explore in the draft, and it will be picked over by everyone. However, it is fair to already say, given that the impetus for a federal anti-corruption body with real teeth is coming almost entirely from public revulsion at the way our MPs have been behaving, that this proposed law has fallen at the first hurdle.

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