

Submission to the Select Committee for the Inquiry into the establishment of a National Integrity Commission

From Bob Bottom, OAM

In the national interest, I hereby make a submission to your inquiry into the establishment of a National Integrity Commission.

In doing so, I outline the emergence of grassroots and top-level support for such an anti-corruption organisation at a federal level in Australia.

Yet repetitive moves by the Greens party in recent years to introduce legislation for a national anti-corruption body have been rebuffed by the Liberal-National Party Coalition and the Labor Party.

A number of petitions calling for a federal ICAC have arisen on internet sites.

Two separate petitions have been launched on a website called change.org

Using the catchline: Set up a STRONG federal anti-corruption watchdog now! It called on followers to sign a petition addressed to all federal politicians “so that we can create an unstoppable momentum to make this happen!”

Another used the catchline: Immediately establish a federal anti-corruption commission.

Its petition was addressed to Prime Minister Tony Abbott and Opposition Leader Bill Shorten, proclaimed: “It’s now possible for anyone to start a campaign and immediately mobilise hundreds of others locally or hundreds of thousands around the world, making government and companies more responsible and accountable.”

Between them, the two petitions attracted nearly 10,000 supporters and followers.

Thousands had earlier signed a petition organised by the Australian Greens in support of its campaign for parliamentary approval for a National Integrity Commission.

That petition maintained that such a commission would help ensure that “elected representatives act ethically in the public’s best interest”.

A petition addressed to “Independent, Minor and Mayor Party Members” was mounted by an internet group calling itself Community Run, a new project provided by the well known independent advocacy organisation, GetUp Australia.

Using the slogan, Demand for a federal independent commission to investigate corruption, its petition states that such a body “will ensure that the future of this country is determined in the best interests of the people”.

A campaign group even emerged on Facebook, using the term, Australian for a federal ICAC, proclaiming: We need greater transparency & accountability to clean up Australian politics.

A citizen journalism website titled No Fibs swung its support behind the campaign, asserting that “in the wings, there is a deafening roar from social media calling for the establishment of a federal ICAC” and it states that “calls for a federal ICAC have so far gone unheeded by politicians and some elements of the mainstream media”.

A number of high ranking legal figures also have come out publicly in supporting the need for a federal anti-corruption commission.

Former commissioner of the NSW Independent Commission Against Corruption, Mr David Ipp, called for a federal body when appearing on an ABC Four Corners program, Democracy for Sale. He stated that a federal body was “very important” and there was “no reason to believe that the persons who occupy seats in the Federal Parliament are inherently better than those who occupy seats in the NSW Parliament”.

Likewise Mr Roger Giles, QC, called for a broad-based anti-corruption body at federal level.

A former judge of the Federal Court of Australia and a former Royal Commissioner, Mr Gyles said it was “clear that there is a large gap in the detection and prevention of corruption in the federal authorities which should be fulfilled by a body with the necessary jurisdiction and powers”.

Mr Gydes is chairman of Transparency International Australia, part of a global coalition against corruption with a presence in over 100 countries.

A similar call for a federal commission was also made by a former judge of the Court of Appeal in Victoria, Mr Stephen Charles, who once chaired a government appointed four-person panel that reviewed Victorian Independent Broad-based Anticorruption Commission (IBAC).

According to him, “Anywhere where people are in a position to spend money and (hold) influence and power, there will be others seeking to obtain them. And Canberra is where most of these things are to be found.”

Mr Charles is a member of the Accountability Round Table, which describes itself as a non-partisan group of citizens such as academics, lawyers, politicians, journalists and authors “who are gravely concerned with the current erosion of honesty and integrity in our democracy”.

Having myself been involved in the establishment of the NSW Independent Commission Against Corruption, I have been a long time advocate for a federal ICAC.

Following are two special articles I have written in recent times which provide an insight into matters relevant for your current inquiry.

Why don't we have a federal ICAC?

By Bob Bottom

SYDNEY MORNING HERALD

April 21, 2014

Resistance to the setting up of a long advocated national anti-corruption commission raises serious questions about federal politicians.

It is all the more puzzling when considered in the context that all state governments have anti-corruption or integrity commissions.

The first to be established was the Independent Commission Against Corruption in NSW in 1989 – 25 years ago.

Yet nationally, the concept has been raised under successive coalition and Labor governments for more than three decades without either side taking any action.

A disturbing insight has been unfolding since the then Greens leader Bob Brown introduced a private member's bill for the establishment of a national integrity commission on 23 June, 2010, during the first term of Kevin Rudd as Labor prime minister.

The very next day, Rudd was replaced by Julia Gillard, who called an election two months later, which meant Brown's bill lapsed.

So Brown resubmitted his private member's bill a month later. After he announced his retirement as Greens leader in April 2012, his bill again lapsed but was resubmitted by Adam Bandt, newly elected deputy leader of the Greens, and backed by new Greens leader Senator Christine Milne.

Notwithstanding support for the bill from independents Tony Windsor, Rob Oakeshott and Senator Nick Xenophon, the bill was referred to a House of Representatives committee made up of only Labor and Coalition members, which did not bother to call for submissions or hold public hearings and argued against the bill.

Thus the bill lapsed again, prompting Milne to complain, "For the life of me, I cannot understand why neither the government nor the Coalition is prepared to back a national integrity commission."

During the campaign for the 2013 election, not even the Greens raised the issue.

The only reference in mainstream media was a *Sydney Morning Herald* article on August 1 by Anthony Bergin, deputy director of the Australian Strategic Policy Institute, who wrote that a "dedicated national anti-corruption agency should be considered".

After the election, in an editorial comment piece on October 8, reviewing the first month of the Coalition government of Prime Minister Tony Abbott, *The Sydney Morning Herald* itself put forward the Greens' national integrity commission proposal, proclaiming that "now is the time to revisit its aims to detect and investigate rorts among federal agencies, ministers and MPs".

Five weeks later, Milne reintroduced the bill in the Senate on November 13.

In her second reading speech, she declared: "It fills the most glaring defects of our governance framework and it will provide the public with an institution it

can rely upon to ensure the highest standards of public administration now and into the future."

Not one other politician spoke and the debate was adjourned.

Such disinterest has drawn criticism from the Australian Collaboration, an independent network of national community organisations.

They include the Australian Conservation Foundation, Australian Council of Social Service, Australian Consumers Association, Council for the Humanities, Arts and Social Sciences, Federation of Ethnic Communities Councils of Australia, National Council of Churches and its Social Justice Network and Trust for Young Australians.

In a research paper they maintained that it "is not a political issue but rather one of public interest and honesty".

Another report by a similar collaborative group, the Accountability Roundtable, which describes itself as a non-partisan group of citizens with diverse backgrounds (academic, lawyers, politicians, journalists, authors) gravely concerned with erosion of honesty and integrity of democratic parliamentary and government process, declares: "If we are serious about addressing the risks of present and future federal government corruption, the key lies in creating an overarching anti-corruption body."

Likewise the Law Council of Australia has argued that "there are persuasive arguments that a federal anti-corruption body is needed to ensure transparency and accountability in the conduct of its officials".

In yet another report recommending a common central agency, Transparency International Australia has pointed out that, contrary to perceptions, Australian public affairs since the 1980s has continued to feature major corruption scandals.

If all the foregoing organisations were to collaborate to wage a campaign for a national integrity commission, federal politicians may well find it hard to continue to resist and finally follow the states and act in the national interest.

Bob Bottom is a retired investigative journalist and author who was engaged as a consultant for the process in setting up NSW's pioneering Independent Commission Against Corruption.

Lack of federal integrity commission a national scandal

- By *BOB BOTTOM*
- From: [*The Australian*](#)
- December 29, 2012

CONTINUING scandals involving corruption at a federal level raise serious questions about why politicians on both sides of politics will not follow the states and establish a national anti-corruption commission.

Ironically, the concept of such a commission was first raised in Australia at a national level 30 years ago.

Unpublicised, an independent agency to tackle corruption had been considered - but not proceeded with - in 1982 by the coalition government under Malcolm Fraser. The interest of the Fraser administration was acknowledged in a book on the history of Hong Kong's world-renowned Independent Commission Against Corruption, established in 1974.

Such a commission for Australia was first promoted publicly in 1986 by former shearer and union official Mick Young, while serving as special minister of state in the Labor government of Bob Hawke.

Young even visited Hong Kong to study the ICAC concept.

As Young then saw the situation, "high profits of crime often lead to corruption of the judiciary, law enforcement and executive arms of government".

The Young initiative fell on deaf ears among fellow Labor as well as Liberal and National Party politicians.

At a state level, Gary Sturgess, parliamentary researcher for then NSW opposition leader Nick Greiner, also undertook a study of Hong Kong's ICAC and prepared a strategy for a similar state anti-corruption agency, established when the Greiner coalition gained power in 1988. Queensland and Western Australia soon followed and all other states now have their own commissions.

At the federal level, however, the Young initiative remained shelved under Paul Keating and under the succeeding Coalition government of John Howard.

After all those years, a private member's bill for the establishment of a national integrity commission was moved by then Greens leader Bob Brown, on June 23,

2010, under Labor PM Kevin Rudd. The next day Rudd was replaced by Julia Gillard, who called an election two months later, which resulted in a hung parliament. To secure the numbers to govern, Gillard struck a deal with the Greens, which included appointing a so-called parliamentary integrity commissioner (which has not happened), but not a national integrity commission to cover politicians and public servants.

Brown resubmitted his private member's bill a month later on September 30. His first bill had lapsed with the calling of the election and after he announced his retirement as Greens leader in April this year, his bill was resubmitted by Adam Bandt, the newly elected deputy leader of the Greens.

In doing so, Bandt referred to the fact that "this parliament, the media and it seems perhaps the whole country has been obsessed about allegations against some members of this place". He was backed by Greens leader Christine Milne, who said the time was ripe for a national integrity commission "to rebuild public confidence in our parliament and public service".

Notwithstanding support for the bill from independents Tony Windsor, Rob Oakeshott and senator Nick Xenophon, the bill was referred to the House of Representatives committee on social policy and legal affairs, made up of only Labor and Coalition members, which did not bother to call for submissions or hold public hearings.

Even so, it had to acknowledge one unsought submission lodged on behalf of the Law Council of Australia. It raised possible amendments on legal and technical grounds but argued that "nevertheless, there are persuasive arguments that a federal anti-corruption body is needed to ensure transparency and accountability in the conduct of its officials".

The committee, though, argued against the bill, claiming, among other things, that it might "intersect with and potentially duplicate existing legislation ... "

That was not surprising, considering that in February the government itself had tabled in parliament a response to a recommendation from another committee: the parliamentary joint committee on the Australian commission for law enforcement integrity, which has oversight of the Australian Federal Police, Australian Crime Commission and other law enforcement entities.

The committee recommended that the government conduct a review of the commonwealth integrity system with "particular examination of the merits of establishing a commonwealth integrity commission with anti-corruption oversight of all commonwealth public sector agencies, with the ACLEI retaining oversight of law enforcement agencies".

The government's response was that "on available evidence there is no convincing case for the establishment of a single overarching integrity commission".

The committee's concluding recommendation was that the bill not proceed prior to the establishment of a further separate inquiry into its feasibility and cost by a parliamentary joint select committee. That has not happened.

In any case, the committee suggested taking into account the results of public consultation on a National Anti-Corruption Plan, announced by the government in September last year and to have been completed in mid-2012 although still ongoing. The plan was to consider a simple code of conduct for politicians and proper whistleblower protection.

A discussion paper on the plan issued by the Attorney-General's Department has come under criticism for not canvassing the option of a national integrity commission and promoting instead the perpetuation of a multi-agency model.

In a submission, Transparency International Australia recommended a common central agency, pointing out that, contrary to perceptions, Australian public affairs since the 1980s have continued to feature major corruption scandals, notably the Australian Wheat Board Limited and Securrency and Note Printing Australia cases.

TIA referred to the results of Australian Public Service Code of Conduct investigations which uncovered hundreds of cases: 86 cases of conflict of interest in 2010-11 (a rise of 41 per cent over the previous year), 83 cases of fraud (up 36 per cent), 64 cases of theft (a rise of 36 per cent), 50 cases of improper use of position (up 67 per cent) and 71 cases of unauthorised disclosure of information

A submission from the Accountability Round Table pointed to the federal government having contributed very substantial sums of money to efforts to address corruption across the world, yet successive governments having failed to lead by example at a national level in Australia.

John McFarlane, an assistant investigator with the Australian Research Council Centre of Excellence in Policing and Security, based at the Australian National University in Canberra, warned in a submission that if the federal government continued to rely on a multi-agency model, it "would, in the long term, be to invite failure".

An embarrassment for federal politicians has been the Australian Public Sector Anti-Corruption Conference, held every two years since 2007.

Hosted by state anti-corruption commissions, the absence of federal representation has been conspicuous, while a special feature has been speakers on behalf of national anti-corruption commissions from Hong Kong, Thailand, Korea, Singapore, Malaysia and Indonesia.

As parliament was about to end its sittings for this year, Milne was quoted in Hansard expressing dismay: "For the life of me, I cannot understand why neither the government nor the Coalition is prepared to back a national integrity commission."

The population at large may well wonder why federal Labor and Coalition politicians should be so fearful of such scrutiny.

Bob Bottom was engaged as a consultant in the establishment of NSW's pioneering ICAC.