

Australian Greens' dissenting report

National Integrity Commission Bill 2018 and National Integrity Commission Bill 2018 (No. 2)

1.1 The Australian Greens have been campaigning in federal Parliament for 10 years to create a national anti-corruption commission. One decade ago, Senator Bob Brown moved a motion in the Senate calling on the government to establish a National Integrity Commission. Since then, the Greens have introduced five bills to establish a National Integrity Commission. This, fifth, Greens bill to establish a National Integrity Commission comes at a time when the crossbench, the opposition and even the government have caught on to the fact that this is what Australians are demanding to end the maladministration that successive governments have modelled.

1.2 The 45th federal Parliament will soon end, leaving the Commonwealth as the only jurisdiction in Australia left unchecked against corruption. In the years since the Greens introduced the first bill for a National Integrity Commission in 2010, the states have gotten on with implementing their own independent anti-corruption commissions. The overwhelming evidence of these culture-changing institutions has reinforced the need for such a body at the Commonwealth level.

1.3 Every day the call grows stronger, and more people across civil society add their voices to the calls for an Integrity Commission. Although Labor and the Coalition voted against Greens Senate motions calling for a National Integrity Commission in 2009, 2016, 2017 and 2018, with a motion in 2014 not even proceeding to a vote, even they are now on board.

1.4 This is no longer a debate about whether we should have an Integrity Commission. The debate is about whether we have the courage to give it the scope, powers and resourcing to be effective.

1.5 Since the Greens introduced our Integrity Commission Bill in 2010, research by the University of Canberra and the Museum of Australian Democracy has revealed that the percentage of Australians who are satisfied with our democracy has plummeted from 72 per cent to 41 per cent. Three in ten Australians trust the federal government. The longer we equivocate on an Integrity Commission, the more trust is lost, and there will be only one chance to get it right.

1.6 This inquiry considered two bills: the National Integrity Commission Bill 2018, and the National Integrity Commission Bill 2018 (No. 2). The first was introduced into the House of Representatives by Ms Cathy McGowan AO MP on 26 November 2018, and is modelled on bills introduced by the Greens. The Greens introduced the second bill into the Senate on 29 November 2019.

1.7 Before doing so, the Greens made two major changes to this latest version of the bill, to address concerns raised by the government and the opposition. Firstly, a 10-year limit on the Commission's retrospectivity was added. Secondly, the definition

of corrupt conduct was refined, to hold ministers and members of Parliament to a high standard of behaviour.

1.8 The Greens firmly believe these bills should pass, and that the framework they establish holds significant advantages for Australian democracy, especially when compared with proposals for an Integrity Commission from the government and the opposition.

Resourcing the agency

1.9 The Australian Greens believe the Commission must be scoped, as well as resourced, to do its job. In its submission to this inquiry, the Community and Public Sector Union made the important point that corruption, by its very nature, is difficult to detect, investigate, prosecute and prevent. Corruption investigations are resource-intensive and can take lengthy periods to complete, in order to gather enough evidence for a criminal prosecution. Further, staff must be trained and resourced properly, or the Commission will struggle to perform its key operational, corporate and strategic functions, including developing and rolling out the National Integrity and Anti-Corruption Plan.

1.10 We have now seen in the 2019 budget that the government has committed \$104.5 million over the forward estimates for a Commonwealth Integrity Commission, which is at the lower end of the range proposed by the Attorney-General's Department in late 2018. The Department proposed \$100-125 million over the forward estimates, with an operating budget of approximately \$30 million per year. The 2019 federal budget has funded \$15.4 million for the Commission in its first year.

1.11 The Attorney-General's Department proposed an average staffing level of 150 for the Commission. The Department advised in Senate Estimates this week that 2019 federal budget has funded approximately 93 staff for the 2019-20 financial year.

1.12 The government's proposed Integrity Commission is not only scoped in such a way that it won't properly address corruption—it is also resourced in a way that will reduce its impact.

1.13 Transparency International Australia, in its submission, contrasted this commitment with the even smaller funding commitment of \$15 million per year which the Labor opposition has committed. It recommended that this inquiry take into account the issue of adequate resources for the integrity framework. To this end, as part of our fully costed platform the Australian Greens are committing \$350 million for our proposed National Integrity Commission over the next 10 years, with \$150 million of this committed in the forward estimates.

Public hearings

1.14 To be truly effective, a National Integrity Commission must be able to hold public hearings. Submitters to this inquiry overwhelmingly said so. Transparency International Australia said the Commission must have discretionary and coercive powers to hold public hearings if sufficient evidence is not obtained, if a prosecution becomes unlikely, if it is in the public interest and if it will be more efficient to

uncover what occurred. The National Integrity Committee notes this power is crucial if the Commission is to adequately deal with corruption. It submitted that it is now generally accepted that it is difficult to uncover corruption without the aid of public hearings. The government's proposed model does not provide for public hearings and as such, has been rightly criticised for its likelihood to be ineffective in tackling corruption. To properly address corruption, we need public hearings as provided for by these bills.

The Commission's powers

1.15 As the Australian Council of Trade Unions pointed out, the model in this legislation is superior to that proposed by the Coalition Government, which has been criticised for its secrecy, weak powers, and lack of sufficient funding and resources. This legislation is our opportunity for a Commission with substantive investigative powers and resources with all hearings held in public where appropriate.

1.16 Submitters found that, in contrast to proposals put forward by the government and opposition, this bill has key features that will address parliamentary integrity and prevent corruption. These include:

- a comprehensive and coordinated approach to providing, detecting and investigating corruption through the establishment of an independent, broad-based anti-corruption commission at a national level;
- strong investigative powers, including the power of a Royal Commission to investigate corruption issues involving the federal government;
- expanding the role of the Australian Commission for Law Enforcement Integrity;
- powers to hold public inquiry and public hearings when in the public interest and to make findings of fact;
- allowing referrals to be made by anyone who identifies a corruption issue; and
- a mandatory reporting requirement for public officials.

1.17 Our bill provides the legislative framework for the comprehensive prevention of corruption and misconduct in the federal Parliament and public service. 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. Our democracy belongs to the people of Australia, not to vested interests, corporate donors and those who can afford to buy access in the halls of Parliament. We need transparency and accountability in our political system and until we get a federal anti-corruption body, our politicians will keep working for the big end of town, not the community they are elected to represent. The Australian Greens believe these bills should pass.

Senator Larissa Waters
Senator for Queensland

