The True Story Behind The Bankers' Royal Commission

Summary:
Nationals MP Barry O'Sullivan triggered the Royal Commission being called by Turnbull and Morrison but no politician was responsible. Bank reform was on the agenda thanks to brave whistleblowers and gutsy journalists like Jeff Morris and Adele Ferguson. Victims of bank misconduct and activists worked on the push to reform using everything they had. Social media, mainstream media and political contacts were worked tirelessly. The bankers saw what was coming and decided to put their inquiry up with their terms and their commissioner by using their Prime Minister and their Treasurer. Even though the Royal Commission was hobbled from the start it did serve a purpose... and everyone very well knows it covered up more than it exposed. This is an excerpt from Michael Roddan's book *The People vs The Banks*. The battle is still being waged and the people will win the war.

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Behind The Fury That Lit Hayne Royal Commission Fuse

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"Things have changed," Scott Morrison told the guardians of the financial system.

It was Wednesday night, November 29, 2017, and Wayne Byres, head of banking regulator APRA, and Philip Lowe, Reserve Bank governor, were hooked up on a call to Morrison, urging the treasurer to take control of the situation at the eleventh hour.

It would be "the least worst option", they said. **Frustrated by the Coalition's refusal to set up a royal commission into the banks, a cabal of rogue backbenchers led by Nationals MP Barry O'Sullivan were on the brink of clinching enough votes to launch their own unwieldy financial services inquiry.**

The proposed commission of inquiry, which would be instilled with all the powers of a royal commission but set up outside of the hands of the government, was finally within reach. The next day, the bill was sure to pass parliament. It couldn't be allowed to happen, Byres and Lowe warned Morrison.

O'Sullivan's commission could do irreparable damage to the financial system. Everybody's job, everybody's mortgage, every loan to every business in the country was dependent on the strength and credibility of the financial system, they said, and O'Sullivan was about to **lift the lid on a Pandora's box.**

With the help of a few of his Nationals colleagues, Labor, the Greens and a handful of crossbench MPs, O'Sullivan had just secured the numbers to blow open the casket. On the numbers, Morrison had lost control, and the executives of the major banks were terrified. For two years, they had claimed the sky would fall in should they be subjected to the glare of a royal commission.

Recessions, spiralling interest rates and housing market implosions were all forecast by a sector desperate to avoid scrutiny. Now, it was all but certain thanks to the O'Sullivan bill.

Lines of urgent communication were opened up between the banking sector and the Reserve Bank and the Australian Prudential Regulation Authority, the two regulators charged with protecting the stability of the financial system.

For Lowe and Byres, the national economic interest dictated that the government would have to take a different course from the one it had charted. **A royal commission was "regrettably necessary", the pair told Morrison.**

"We had to deal with the maths in the parliament," Morrison later said. "And the maths in the parliament was going to lead to an unwieldy and directionless and haphazard commission of inquiry which would have done far greater damage — and **that was not something that we believed should be allowed to happen."**

Things had changed. There are decades where nothing happens. And then there are weeks where decades happen. Over that last week of November, everything happened. Just seven days earlier, O'Sullivan had released his private member's bill for the commission of inquiry into the banking sector.

It had sprung from a seldom-used piece of legislation that allows the parliament to hold the government to account. When the government of the day will not launch a royal commission into a particular case, a separate act allows the parliament to establish a commission of inquiry that reports to parliament rather than the governor-general. Any such inquiry can be given whatever powers a parliament sees fit to give it, as long as they are constitutional.

The O'Sullivan bill would hit the floor in a week's time, and all he needed was 76 votes on the floor of the House of Representatives. With a few concessions here and a few amendments there, he was virtually assured of the numbers.

The horsetrading resulted in dramatically expanding the terms of reference for the mooted inquiry as input from various MPs who stormed into his office dragged them wider. But O'Sullivan was happy to

be accommodative.

The breadth of what the commission would be investigating sent shivers down the spines of the banks. It proposed to test whether behaviour in the financial sector was “unethical” — a seemingly absurd hurdle to clear for a financial services firm, let alone any business.

A “fairness and propriety” test would have implications well beyond the banking sector, while an investigation into whether banks had acted fairly when impairing sinking borrowers would directly fall foul of prudential laws requiring banks to do so.

The ragtag parties across the Senate would also be given the power to nominate three commissioners — a former judge, a community representative and a financial expert. **The banks feared a circus where they’d be forced to swallow the sword. All sorts of MPs were walking into O’Sullivan’s office, across party lines, with every idea being written into the draft bill.**

One of them was Labor senator Sam Dastyari, who had eventually persuaded his leader, Bill Shorten, to take up a proposal for a banking royal commission in the party’s election platform. The Nationals MPs were determined to launch the inquiry. Liberal government MPs were aghast at their Coalition partners. Prime minister Malcolm Turnbull had been calling O’Sullivan repeatedly over the week. A former merchant banker himself, he believed O’Sullivan had little comprehension of what he was about to unleash and, like a dog chasing a garbage truck, little idea of what he wanted.

It would be a political disaster if Labor and the Greens could anoint the commissioner overseeing the inquiry, but it was an own goal O’Sullivan didn’t seem to comprehend. Financial services minister Kelly O’Dwyer was told to try to sort the mess out. She called O’Sullivan into her office on that Wednesday morning as he was wrapping up the draft bill. While O’Dwyer kept her composure at the meeting, she was horrified at the extent of control the Greens and Labor would have over the inquiry.

She told O’Sullivan the government needed more time to consider the draft bill and urged him to hold off on his threat to introduce it at least until the next day.

The delaying tactic worked, and pushed the treasurer and prime minister into crisis mode. As her meeting with O’Sullivan ended, O’Dwyer strode across parliament and into Morrison’s office. He was sitting with Nationals MP Llew O’Brien, who had threatened to cross the floor to support the bill. O’Brien pleaded with Morrison to back the inquiry. He was under pressure from constituents in his regional Queensland electorate over sackings of bank employees.

As O’Brien left, O’Dwyer and Morrison came to the reluctant conclusion that the Nationals were not for turning. They didn’t understand the consequences of the O’Sullivan bill, nor did they care. As things stood, the parliament would in 24 hours be voting for the commission of inquiry. It was clear Morrison’s Plan B had not worked.

Under the threat of the O’Sullivan plan, the treasurer had been rushing together anew compensation scheme for victims of financial scandals in a bid to soothe the Nationals revolt. A week before, he had called the chief executives and chairs of the major banks to discuss his plan to resolve “legacy issues”relating to misconduct. Under the proposal, a panel would review cases and award compensation.

The mini-royal commission looked promising. Warren Entsch, a Liberal MP who had long been agitating against the banking sector, was involved in the negotiations. But the banks were circumspect about the plan’s ability to derail O’Sullivan. The discussions with the bank bosses brought all the executives together.

National Australia Bank chair Ken Henry and Westpac chair Lindsay Maxsted met with Morrison on November 23, and Commonwealth Bank chair Catherine Livingstone and her counterpart ANZ David Gonski met him the next day.

The bankers were supportive of the move, but didn't think it would kill the political football O'Sullivan was handballing around parliament. They were proven correct. Come Monday, the nation's politicians had once again descended on Canberra and O'Sullivan was able to gather the numbers for his commission of inquiry bill. Tuesday's newspaper headlines told the bankers all they needed to know. Time was up. **In a phone hook-up the bank chairs decided they needed to come up with a contingency plan.**

They tapped their CEOs to get together at the same time as O'Dwyer was winning her brief reprieve from O'Sullivan. By early evening on Wednesday November 29, the bankers had all agreed it was desperate times.

The desperate measure, then, would be to rip off the bandaid. **A letter signed by the four chairs and CEOs was sent to the treasurer in which they told him that the next morning they would call for a royal commission themselves — one with properly instituted terms of reference — and hoped the government would fall behind the plan.** The letter would be lodged with the Australian Securities Exchange on the Thursday morning at 8.30am, which would make it a public document. It would be game over. Unbeknown to the bankers, Morrison had been preparing a grudging Plan C.

A small circle of cabinet ministers had been working fast and hard behind the scenes to prepare the ground for their own royal commission. After opposing such a move for two years, Turnbull had decided he was now open to such a measure.

In a cabinet meeting earlier in November, he had raised the prospect that the government might be forced to hold a commission.

Morrison had been furious at the suggestion. Backflipping would make him look foolish for arguing so stridently against such an inquiry, he told the meeting. But it was clear the ground was already shifting beneath him.

On Tuesday November 21, a second small cabinet meeting was called. All too aware they had their backs against the ropes, **Turnbull raised again the possibility of the government holding its own royal commission.**

If it was inevitable, they might as well control it. They could even broaden the inquiry beyond the big four banks to the places they wanted it to go, while keeping it on a tight leash so it didn't look where they didn't want it to look.

After that meeting, the pointy heads in the Department of Treasury were asked to start designing a royal commission, just in case. Treasury dutifully came back to Morrison with advice and a draft terms of reference, and held discussions with attorney-general George Brandis about the inquiry's scope. The government's key economic advisory department basically had everything ready to go. Treasury deputy secretary John Lonsdale had spent quite a lot of time in the year leading up to this moment thinking about a royal commission and advising the government on what it might look like.

After the cabinet meeting, Morrison used the next two days talking to the banking chiefs and his parliamentary colleagues. The treasurer would become a late convert, changing his mind on the royal commission given the threat of an uncontrollable commission of inquiry.

As he received the signed letter from the bank bosses, everything had fallen into place. A late-night call soon after with the APRA and RBA bosses, who warned of the price of inaction, was enough to seal the deal. Turnbull called a cabinet meeting for early on the Thursday morning, just before the ASX would publish the signed letter from Commonwealth Bank, Westpac, NAB and ANZ.

At 8.31am, the statement hit the market: "Major banks unite to call for certainty and stability". Gonski and his ANZ chief Shayne Elliott, Livingstone and CBA boss Ian Narev, Henry and head of NAB Andrew Thorburn, and Maxsted and his chief Brian Hartzer said it was time for the government to "act decisively".

Writing to the treasurer “as the leaders of Australia’s major banks”, they gave the government all it needed to backflip on its own reticence regarding a royal commission.

“Our banks have consistently argued the view that further inquiries into the sector, including a royal commission, are unwarranted,” the letter said. “However, it is now in the national interest for the political uncertainty to end.”

As market traders digested the document, the meeting of cabinet ministers endorsed a decision to set up a royal commission. Less than half an hour after the bank statement went live, Turnbull and Morrison walked out into the prime minister’s courtyard for a press conference to announce the commission. What had once been unthinkable was apparently now the only way to restore confidence in the financial sector.

“Since the financial crisis there have been examples of misconduct by financial institutions, some of them extremely serious. And that’s demanded a response from the institutions themselves and from government,” Turnbull said.

“The only way we can give all Australians a greater degree of assurance is a royal commission into misconduct in the financial services industry.”

The prime minister gave one stern warning: “This will not be an open-ended commission. It will not put capitalism on trial.”

This is an edited extract of The People vs The Banks by Michael Roddan

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BRN Comments

Turnbull and Morrison gave us a Clayton's Royal Commission. Limited time. Limited power. Limited Commissioner. Turnbull never wanted a Banking Royal Commission when he had the power and Shorten didn't want one when his crew had the power. It wasn't capitalism the bankers were worried about being put on trial ..... it was them being put on trial. The last twelve months have shown all but the most rusted on major party supporters that you cannot trust the major parties. The disappointing Access To Justice Inquiry is just the latest example. Phony inquiries where people are repeatedly given the run around. These inquires are just a money making exercise for the MPs and Senators that sit on them. That's one reason they never achieve anything. If the first banking inquiry did the job there would be no need for more inquiries. Pollies will never take on corporate powers properly. They'll do anything for donations and they have to look to the future when the corporates give them post-politics jobs. It's a racket and the people and country are paying for it big time.

Election 2019 is our best shot at meaningful reforms but the people need to Stand - Unite & Make It Right. We must only vote for candidates that support innovative policies that give everyone a fair go. #SUMIR launching soon.

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