# Citizens Electoral Council of Australia

**Postal Address:** PO Box 376, Coburg Vic 3058
**Phone:** 1800 636 432 Fax: 03 9354 0166
**Home Page:** www.cecaust.com.au **Email:** cec@cecaust.com.au


Authorised by R. Barwick, 595 Sydney Road, Coburg, Victoria 3058. Printed by Citizens Media Group Pty Ltd., 595 Sydney Road, Coburg, Victoria 3058.

Independent Political Party

6 February 2019


# Tell your MP: Don't hide behind the Royal Commission snow job!

The 18-page bill to separate the banks that Pauline Hanson will introduce into the Senate next week will do more to fix up the banking system than anything in Kenneth Hayne's 1,133-page final report.

Despite the very useful and game-changing revelations from the royal commission's public hearings, and a number of important recommendations, the final report largely conforms to the rigged terms of reference that Malcolm Turnbull and the banks wrote for Hayne in the first place.

Here's the big question: is this the reason Turnbull chose Hayne, knowing he would stay within the narrow guidelines? Or, is this the reason there was clear tension between Hayne and Treasurer Josh Frydenberg when Hayne handed over his final report on Friday 1 February—had he been leaned on in any way to constrain his recommendations, especially in relation to structural separation?

Whatever the case, his recommendations do not fit the severity of the crimes and misconduct that his public hearings and his formidable counsels assisting, Rowena Orr and Michael Hodge, relentlessly exposed over 10 months in 2018. Presumably, Hayne would be embarrassed that shares in the Big Four banks and AMP and IOOF soared the next day, leading to headlines such as "Banks surge after royal pardon" (*Australian Business Review*) and "Banks enjoy Hayne bounce" (*The Australian*).

Politicians, especially from the major parties, which receive millions in donations from the banks and the big four global accounting firms that hide the banks' crimes, are going to want to hide behind this final report, and say that's all they need to do to address banking problems.

It's up to the public to make sure that doesn't happen. The Australian people must not let parliament shift its responsibility to ensure a functional, honest financial system onto Kenneth Hayne. He's done all he will do; it's up to parliamentarians to take the responsibility that was theirs all along to fix the system, and Hayne's report won't do that.

### Backlash

It's not just the Citizens Electoral Council saying so.

While the mass-consumption corporate media seem to have coordinated their coverage to make it appear that Hayne has been tough on the banks, plenty of experienced media figures have been prepared to say otherwise.

Alan Kohler, Australia's leading financial commentator, wrote in the 5 February *Australian*: "Kenneth Hayne's final report was a stiff and eloquent ticking off of the financial services industries. But it is also a failure. Specifically, his decision to not call for the separation of product and advice is both inexplicable and egregious."

Janine Perrett, who has reported on banking inquiries going back to the 1981 Campbell Report, was scathing of Hayne's report on Sky News, calling it "underwhelming" and saying that nothing will change unless bankers go to jail.

Finance expert turned radio host Tom Elliott said on 3AW: "It doesn't sound like anything is going to fundamentally change for the banks. They're not being broken up, nobody is going to jail. To me, this seems like a bit of a slap on the wrist with a wet lettuce leaf."

Banking expert Martin North of Digital Finance Analytics called the final report a "fail".

And the inimitable Adele Ferguson, who did more to force the government to call a royal commission than any other journalist in Australia, noted in the 5 February *Sydney Morning Herald*: "For those Australians hoping for structural separation of the banks, an overhaul of the regulators or heads on sticks, royal commissioner Kenneth Hayne's verdict would have been disappointing. There was little blood and gore. It was more like a soft landing. The royal commission spent a year listening to how many ways government regulators failed in their duty to regulate the financial services industry. Customers were ripped off but the regulators had little or no appetite to use the tools at their disposal, preferring instead to do cosy deals with those they were meant to police. Despite this, Hayne is giving them more powers and more work and has faith they will now actually do their job. He recommends additional co-regulation, which could be an excuse for more buck-passing."

### *AFR* glee

It is damning that the media outlet that is most conspicuously cheering this report is the one that fought hardest against having a royal commission in the first place, the *Australian Financial Review*. On 25 November 2017, just days before Malcolm Turnbull called the royal commission, the bank cheerleaders on *AFR*'s editorial board attacked the idea, saying that "it would make scapegoats [*sic*] not just of the big four, but pull insurers, super funds, financial regulators, small business and farmers into a grab bag of grievances" and "send a message to the world … that there is some chronic underlying problem with Australia's banks, when the GFC showed the exact opposite is true." On 12 March 2018, the day the first round of royal commission hearings started, the same *AFR* editors warned: "The Hayne commission is not designed to be an inquiry into how our entire successful banking industry has been structured, *and nor must it become one*." (Emphasis added.)

Sadly, *AFR*'s endorsement of Hayne's report today tells you everything you need to know:

"He does not find that banks have been irresponsibly lending willy nilly to housing borrowers who could never repay the money", the gleeful editors wrote. "He rejects calls to extend consumer protection laws to small business lending, which would have risked strangling the supply of credit to small business. Thankfully as well, *Commissioner Hayne does not recommend banning so-called vertical integration* in which a bank or wealth manager sells products it also 'manufactures'." (Emphasis added.)

### Bank separation

Why is there so much media emphasis, both pro and con, on vertical integration and separation? Because that is *the* issue, which is at the heart of all banking misconduct and exploitation of customers. If the banks that hold deposits didn't own other financial businesses, they wouldn't profit from pushing their depositors into those other businesses, or from gambling with their deposits—it's not rocket science. The two-decade experiment with integrated banking has been a spectacular failure for customers and the economy, and a boon only for bankers' bonuses. Separation is the one thing the banks feared the most, and it's the issue that terrified the City of London's banks about Australia's royal commission—if Hayne recommended separation of Australia's banks, governments around the world might be prompted to copy it.

And this is where Hayne's report fails miserably. Although he recommended reforms to stop the specific ways that the banks were shown to exploit their customers, he stopped short of ending the integrated structure that is the cause of the exploitation. In section 3.3.2, "Structural separation?", Hayne fluffed it, concluding, certainly not definitively, that "I cannot say the benefits would outweigh the costs" and "I am not persuaded it is necessary". By only addressing the banks' specific methods, but not removing the conflict of interest by breaking them up, Hayne's report simply allows bankers to come up with new ways to exploit their customers that are not forbidden in his report.

The CEC is most critical of one sentence in Hayne's section on structural separation, which is blatantly false. Referencing the submissions following the second round of hearings and in response to the interim report, it reads: "*Almost none of those submissions supported the enforced separation of product and advice*."

This, whether witting or unwitting, is a lie. In response to the interim report, the royal commission had been inundated with thousands of submissions demanding enforced separation, which the CEC had encouraged the public to make. As Alan Kohler took note in the 3 December 2018 *Australian*, "I have been opening a random sample of the 10,140 submissions—just short ones from individuals. Without exception they called for the banks to be broken up and most of them, surprisingly, used the term 'Glass-Steagall'—suggesting that the now-repealed American law that used to forcibly separate banking from insurance and investment banking be introduced into Australia."

### Parliament has the responsibility!

So Hayne, under extreme pressure from the beginning, which perhaps explains his tension with Frydenberg, has stayed within his rigged terms of reference. The responsibility for fixing the system lies where it always has, however, which is with Parliament, not with Hayne. The Australian public must not let politicians hide behind this rigged process, but demand they act on their responsibility as MPs and enact changes that will actually fix the system.

The first and most important change is to break up the banks based on the US *Glass-Steagall Act*'s separation of commercial banking from investment banking and other financial services, for which the CEC drafted legislation in 2018, the Banking System Reform (Separation of Banks) Bill. Bob Katter, who was a driving force behind the royal commission, introduced this bill into the House of Representatives on 25 June, seconded by Andrew Wilkie. Next week, Senator Pauline Hanson intends to introduce the same bill into the Senate, where there is broad cross-bench support for the principle of banking separation—but notably the major parties oppose it. This 18-page bill will do more to fix the system than any of the recommendations in Hayne's 1,133 pages of final report.

The second immediate measure that the CEC is calling for, and which this weak final report makes even more crucial, is an independent audit of the Big Four banks by the Auditor-General. Currently the banks are only audited by the Big Four global accounting firms, which are complicit in covering up crimes and misconduct in large banks all over the world (these accounting firms were supposed to be investigated by the royal commission, but Malcolm Turnbull removed them from the terms of reference; according to Crikey.com.au on 4 February, they are now the biggest donors to the two major parties). Parliament should direct the Auditor-General to dig into the banks' books to investigate not just crimes but also the growing risks in their mortgage books and derivatives trading which present a systemic threat to the financial system and the economy.

Furthermore, the CEC has issued a "5-point program to avert economic catastrophe" which includes Glass-Steagall, as well as a national bank, a moratorium of home foreclosures, public investment in infrastructure and international cooperation on a new global financial architecture that encourages useful production over destructive financial speculation.

It is up to the Australian people to demand these measures, and not let MPs, especially those in the major parties, get away with continuing to protect the major banks by hiding behind Hayne's final report.

## Call or email your MP to tell them:

- Hayne's final report isn't good enough, and they must support the Separation of Banks bill that Pauline Hanson will introduce in the Senate on 12 February.
- There must be an audit of the Big Four banks.