

THE AUSTRALIAN

How ICAC got it wrong on Ransley, embarrassing NSW

CHRIS MERRITT THE AUSTRALIAN 12:00AM March 23, 2018

This week's exoneration of businessman Craig Ransley has provided a very important lesson for the NSW government and that state's media, if they are willing to learn.

Five years ago, a NSW government agency conducted an inquiry that, unlike the courts, was not at arm's length from the government and was not governed by the rules of evidence.

That agency, misleadingly known as the "Independent" Commission Against Corruption, pre-empted the justice system and stated publicly that Ransley was corrupt — a finding that is at odds with the findings of the courts.

Ransley features in one of the ICAC reports that formed the basis for the expropriation by the government led by former premier Barry O'Farrell of coal exploration licences, one of which was held by a company with US shareholders, NuCoal Resources.

The US, which does not take kindly to the theft of American assets, is involved in talks with the NSW and federal governments.

Recent disclosures in parliament have made it clear that the reports that formed the basis for the expropriation ignored secret evidence from two former NSW premiers, Kristina Keneally and Nathan Rees. Their secret evidence is at odds with ICAC's narrative.

More doubts have now emerged about the veracity of what ICAC told parliament.

Ransley, a central figure in ICAC's tale of wrongdoing, has been exonerated twice. He was found not guilty in November of three charges that related directly to ICAC's coal inquiry known as Operation Acacia. This week he was found not guilty of a separate charge of misleading ICAC.

The lesson is this: in this country there is one justice system and that system is administered by independent courts, not agencies of state governments. Politicians ignore that reality at their peril.

When government agencies adopt the outward appearance of courts, some media outlets and politicians have mistakenly treated their "findings" with the respect that is properly due only to those of the courts.

Those who fail to make that distinction risk misleading the community and, as the Ransley case proves, eventually looking ridiculous not just in NSW but on the world stage.

In the Ransley case, agencies of the NSW government spent millions of dollars pursuing this innocent man while infringing fundamental rights such as the presumption of innocence and the right to be free from arbitrary attacks on his reputation.

Those who defend ICAC's public hearings argue that they educate the community about corruption. That's about as persuasive as saying the media should be present in police interview rooms because this helps educate the community about crime.

In both cases, this is delusional. It ignores the reality that ICAC and the police cannot decide guilt or innocence.

Their assessments are not conclusive. Public education about corruption is therefore best delayed until courts rule on whether corruption exists.

The ICAC delusion works only if it is first accepted that this agency amounts to a parallel system of justice that never makes mistakes and therefore does not need to have its findings subjected to an appeal on the merits.

That is quite a stretch. Compared to the courts, ICAC has a structural propensity to get things wrong. It is not bound by the rules of evidence and has been stripped of the procedural safeguards that are present in the courts.

The Ransley case, and the suppressed evidence of Keneally and Rees, has left NSW in a terrible position. This state stole private property owned by Americans, banned them from seeking redress in court and based this decision on reports that suppressed inconvenient evidence and smeared an innocent man.

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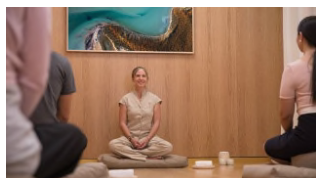
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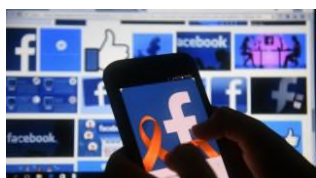
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