A symbolic reassertion of Australian national sovereignty against the states and a more explicit rejection of Chinese President Xi Jinping’s defining strategy — the Belt and Road Initiative — has seen the Morrison government flex its political muscles over constitutional powers.

The states have overreached on two counts — their unjustified, albeit popular, closure of most borders and the earlier decision of the Andrews Labor government in Victoria to sign up to China’s BRI — with Scott Morrison building political pressure on the former and now using constitutional authority to repeal the latter.

Facing pressure this week over the conditions in aged-care accommodation, the Prime Minister sought to switch the political debate to the national interest imperative demanding that Australia deal with Beijing with “one voice”, thereby picking a guaranteed electoral winning issue. The announcement by Morrison and Foreign Minister Marise Payne of a new Australian foreign relations bill to override state governments in making agreements with foreign governments is an assertion of national responsibility, the aim being to tear up Premier Daniel Andrews’s BRI deal with China.

This bill attacks Andrews at his weakest point. His overreach on China lacks a constitutional foundation. Andrews is going to be humiliated. It will deepen the fracture between the Morrison and Andrews governments — witness the petulant response from Andrews this week. “There is only one sovereignty in Australia and it’s Australian,” Morrison said in a rebuttal to other levels of government.

This comes after a week when the Prime Minister’s angst over state border closures reached a new intensity, climaxing with Morrison’s demands on Friday for an explanation from Queensland over a NSW mother who lost an unborn child after a border debacle.

The Morrison BRI stand, obviously, is not driven by border closures. But its context amid commonwealth-state rifts over constitutional powers cannot be avoided with a frustrated Prime Minister — who sees sovereignty as the core lesson from the pandemic — taking resort to the external affairs power to impose a national interest foreign policy on the premiers.

It is untenable to think Victoria signing up to two BRI agreements undermines Australia’s foreign policy. But it does conflict with that policy and Morrison will have support for cutting the Andrews’s agreement. Anthony Albanese said federal Labor did not support Australia signing up to the BRI, so Andrews is in conflict with both the Prime Minister and the federal Opposition Leader.

This decision reflects Morrison’s belief that the premiers — despite the briefings they have received from the security agencies — are reluctant to take seriously China’s security threat and have a preferred focus on the trade relationship.

Acting on that perception, Morrison is imposing a new discipline on the premiers. He acknowledges the constitutional issue on borders is different and grey compared with the sharply defined constitutional issue on foreign policy. Yet the fracture on border closures pervades Morrison’s thinking. When he announced the new law, Morrison also said: “Australia wasn’t built to have internal borders. National cabinet has never made one decision that supports the unilateral imposition of borders within Australia.”

This week’s BRI decision, however, is the next stage in the evolving Australian resistance to Xi’s central foreign policy framework that has 138 nations signed up to an amorphous concept designed to promote infrastructure and advance Beijing’s strategic interests.

Former Australian ambassador to China Geoff Raby, long an advocate for Australia’s entry into the BRI, is a realist about the concept, describing it as “the overall organising principle of China’s foreign and trade policy” and a “key part of China’s grand strategy”.

In 2014 under the Abbott government the story was full-frontal engagement with China — by governments, universities and businesses. The free trade agreement was signed, its architect, Andrew Robb, was a hero, Xi visited and said Australia had a place in his dream of a rejuvenated China, Abbott was seized with the economic opportunities and his government repudiated pressure from US president Barack Obama and joined the China initiative for an Asian Infrastructure Investment Bank. The Americans were displeased.

A critical moment came in May 2017. The national security committee of cabinet chaired by prime minister Malcolm Turnbull, with Morrison as treasurer, assessed a proposal that would link Australia’s northern development strategy with China’s BRI — the critical point in Coalition decision-making on this issue. It was a long debate.

The NSC decided against on sheer financial pragmatism. It felt Australia would not win an extra cent in investment from China by signing this memorandum of understanding linked to the BRI but would contribute instead to the political momentum surrounding Xi’s strategic game plan. “If we had thought there were big economic gains the decision would have been more difficult,” one participant said.

This was not an anti-China ideological decision. Turnbull’s pragmatism was displayed in August 2018 when he said: “We look forward to working with China on Belt and Road Initiative projects” and, given vast infrastructure deficiencies in the region, he said infrastructure investment “is a good example of where countries should work together”.

The BRI has been riddled with problems, notably lack of transparency, exploitation of poor nations and imperialism in the guise of Marshall Plan generosity. But Australia did ink an agreement. In September 2017 the Turnbull government signed an MOU with China dealing with support for the BRI in third-party countries. Morrison said this week of that arrangement: “It did not sign up to or endorse the BRI.”

Both Liberal and Labor, while anxious to avoid any criticism of the BRI, decided Australia should take Chinese investment decisions on a project-by-project basis, not by entering into a broader China framework.

In May last year Morrison said of the BRI: “We have a neutral position on that. We don’t sign up to it. We don’t participate in it.” But he said the government sought to facilitate and encourage Australian companies to participate.

When Andrews announced Victoria’s 2018 agreement with China, Morrison, not long as prime minister, said: “It hasn’t been discussed with me, no, and that was a bit of a surprise. We don’t have an MOU with the Chinese government on those things. We’ve always been clear about it and when these things happen, then that creates mixed messages. I mean foreign policy is the domain of the commonwealth government.” So Morrison had reservations about the Victorian decision from the start.

In November 2018, Trade Minister Simon Birmingham, responding to the Victorian decision, said he “welcomed the fact that Australian businesses and those representing them take the opportunity to engage”, providing the framework offered “sustainable investment and respects the sovereignty of others”. Birmingham, when pressed, declined to say Victoria had done the wrong thing. He said he didn’t know what was in the MOU and added: “I can’t say whether or not Victoria should have signed it.”

The actual consultation process between the Andrews government and the Department of Foreign Affairs and Trade before signing was slim. DFAT did offer some advice. The department outlined the wider national interest issues but did not advise Victoria not to sign. There was no consultation on the second MOU relating to implementation. Ever since, there has been growing unease in Canberra about the Victorian action.

In short, there were two blunders: Victoria’s decision to sign up and the inept federal response at the time. There was no serious assessment process. The ineptitude of what happened then proves the need for a better system.

The deeper strategic reality cannot be missed. As China has grown more assertive and retaliated against Australia on the trade front, our rejection of the BRI has become a far more settled strategic stance. Participation in the BRI would now be inconceivable. On June 11 this year Morrison, asked by Neil Mitchell on 3AW, said: “It is not something the Australian government has signed up to because we do not believe that it is in Australia’s national interests.”

The new law will give the Foreign Minister discretion similar to that enjoyed by the Treasurer on foreign investment decisions. In relation to agreements between Australian states and other governments, Foreign Minister approval will be required at two points — before negotiations begin and when the agreement is finalised. The minister can veto at either point. In relation to lesser agreements, at state, province, city or university level, notification is required and the minister can veto.

The purpose of this law is designed to change behaviour. The main targets at present seem to be Victoria’s BRI and Confucius Institutes. The government has identified, so far, about 135 agreements that will be assessed. Don’t expect vetoes en masse. That’s not the purpose and would be a blunder. There will be a public register established listing all agreements. The symbolism may prove to be more important than the substance. The government is still sorting how far to draw the line on university agreements.

Morrison’s language this week tells the story: “We need to ensure that Australia, not just the federal level but across all of our governments, speak with one voice, act in accordance with one plan, consistent with the national interest, as set out in Australia’s foreign policy as determined by the federal government. So this is an important day for sovereignty in Australia.”

Nobody could miss this political message.

Payne called the current system a “patchwork”. Indeed, to this time there is no understanding that states need to consult with the national government on agreements. ASIO has long believed China seeks to get its way in federations by securing deals with states when the national government declines.

The Foreign Minister’s new discretion is sweeping. An approval means the minister must be satisfied “the negotiation or arrange­ment does not, or is unlikely to, adversely affect Australia’s foreign relations and is not, or is unlikely to, be inconsistent with Australia’s foreign policy”. Morrison refused to be drawn on what agreements might face disapproval.

The law has wide support. Former trade minister Robb told the ABC it made “complete sense”. Former defence, foreign affairs and ASIO chief Dennis Richardson said: “In principle I think it’s perfectly reasonable.” He said it was “unwise” for Victoria to sign up to the BRI and give China “a propaganda win”. Raby, a strong advocate of China trade, said: “If the commonwealth feels it needs this legislation for greater clarity, then so be it.” Labor can be expected to support the law.

Despite his new proposed law, Morrison called himself a “passionate federalist” and pointed to his national cabinet as the prime evidence. “I’m not seeking to change any of the powers here” he said of the commonwealth-state constitutional arrangements. But Morrison has begun to quote Alfred Deakin about Australia being indivisible. In relation to border closures — except those relating to Victoria — Morrison’s view is they are unjustified on medical and economic grounds.

This week’s decision reinforces the political philosophy by which Morrison defines his leadership — acting on the basis of national sovereignty and national interest. This is becoming deeply entrenched and a powerful electoral weapon, not unlike that of John Howard. People not much interested in politics have this perception of Morrison.

The reaction of the premiers has been muted apart from Andrews’s pathetic lament that “if the Prime Minister’s got time to be doing those things, than that’s fine for him, I don’t” and the predictable complaint from former West Australian premier Colin Barnett that this constituted “a real threat to the resources industry”. It is noteworthy that Warwick Smith, the leading business advocate of the China relationship, called the proposal “common sense”.

For universities, the risks are obvious — that the Morrison government is adding yet another layer of regulation likely to inhibit genuine Australia-China research collaboration. Not all university agreements will be caught up in the new net but those closely related to Chinese government interests will fall under the new law. The cultural gulf between the Morrison government and the university sector is only deepening — the lack of trust within the cabinet for university leaders has become a national liability.

Richardson said universities were seen by the intelligence community as a “point of vulnerability” that “needs to be closed” but that Australia must beware the idea that any agreed research with China was bad. He said that would be a “foolish” conclusion.

Australia’s turn away from the BRI a few years ago was a “fork in the road” decision that looks far more important as the years advance. It is significant that the Coalition and Labor reached the same conclusion. Two factors were at work: the direct benefits of signing up were never apparent and the strategic downside only grew. The more the Australian government saw the BRI as a vehicle to advance China’s strategic influence the more it became a threshold Australia would not cross.

Raby told Inquirer that after Australia under the Abbott government finally joined the China initiative for an Asian Infrastructure Investment Bank in the teeth of US resistance “the quid pro quo in terms of American tolerance was that we would never join the BRI”. He said: “The BRI became a bridge too far and that has been fixated in Australia’s policy stance ever since.”

The BRI is a critical factor in US-China rivalry. In Sydney in 2018 US Secretary of State Mike Pompeo said: “The challenge China presents to us in the region is upon us, whether that is the militarisation of the South China Sea or their Belt and Road Initiative.”